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House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. KIRK).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 21, 2002.

I hereby appoint the Honorable MARK STEVEN KIRK to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Oregon (Mr. DEFAZIO) for 5 minutes.

CORPORATIONS MAKING FAKE MOVES OFFSHORE TO AVOID TAXES AKIN TO TREASON

Mr. DEFAZIO. Mr. Speaker, today the United States House of Representatives will take up legislation to accelerate and phase in relief from the marriage penalty. This is meritorious legislation, which I intend to support. The House was supposed to take up this legislation last Thursday. Strangely enough, it was postponed until today. The reason it was postponed until today was so it could be brought up under an extraordinary procedure which does not allow amendments because the Republican leadership feared the Democratic amendment to that bill.

Mr. Speaker, we wanted to close a huge new corporate loophole which has been discovered by people who make Arthur Andersen and Enron look kind of honest. Major U.S. corporations have found, and they have known for years, that they can go to Bermuda and avoid taxes on their overseas earnings. Now they have found if they do a new Bermuda triangle, they can avoid all taxes in the United States of America while living here, being protected by our military and firefighters and police, but not pay one penny in Federal income taxes. This is a great country.

This, of course, has the support of the administration, quietly. They are quick to accuse people of being unpatriotic, and God forbid they accuse corporations of being unpatriotic for failing to contribute their fair share and going under a flag of convenience and making a phony move offshore to avoid paying taxes in this time of crisis. This is extraordinary to me.

Mr. Krugman explained it very well in the New York City Times. ''By incorporating itself in Bermuda, a U.S.-based corporation can, without moving its headquarters or anything else, shelter its overseas profits from taxation. Better yet, the company can then establish 'legal residence' in a low-tax jurisdiction like Barbados, and arrange things so that its U.S. operations are mysteriously unprofitable, while the mail drop in Barbados earns money hand over fist.'' And, it is exempt from any tax anywhere in the world. That is just great.

That is what Secretary O'Neill calls competition. I call it tax evasion, skulduggery, and unpatriotic; and the Republican leadership should be ashamed that they are not willing to vote about keeping this loophole open. If that is what they feel, allow us to offer our amendment and vote in favor of this tax loophole. Admit that they have thrown in with Secretary O'Neill who says corporations should not pay any taxes in the United States of America.

Yes, that is true. The Secretary of the Treasury, appointed by George Bush, says that corporations should pay no taxes in this country, that working people should pay all of the taxes, a shift that has been going on over 30 years, where 30 years ago corporations paid one-quarter of the taxes in this country. Today it is down to a little less than 10 percent. He says that is too much. The American people should carry that burden, not corporations.

People say they have stockholders and they will do well. Under this new scam with Stanley Works, the company that is most known for this recently, actually the stockholders are going to have to pay taxes when the company makes its fake move to Barbados, but the CEO is going to get 58 percent of the tax savings. So over 8 years, the CEO could potentially profit by $385 million with his stock options, one individual, while the stockholders pay more in taxes, while the U.S. Government was deprived of $240 million in taxes. If they had just cut his stock options and salaries down to $140 million, they could have paid their taxes to the United States of America. Of course, he would have had to scrimp by on $140 million over the next 8 years. Pretty tough to make ends meet in Connecticut on $140 million over 8 years. I know the cost of living is way up.

This is just an absolute new low both for this body, this administration, and such an unbelievable fraud on the American people. This practice must be brought to a screeching halt. In a time of deficit and crisis, for a profitable U.S. corporation to make fake

moves overseas to avoid their patriotic obligation to pay taxes is, I believe, akin to treason.

THANKING WORLD WAR II VETERANS

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized during morning hour debates for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, as we prepare to celebrate Memorial Day, I would ask that we pause and reflect on what some have called our greatest generation. Over 16 million Americans answered the call, and now we are losing over 1,000 World War II vets every day. We owe all our vets.

Perhaps one of the greatest tributes was offered by President Ronald Reagan when he went to Normandy to observe the 50th Anniversary of that amazing invasion. He said, ''Those men of Normandy were men of great faith. They had faith that they fought for all humanity. They had faith that they fought for a just cause. They had faith in a loving God that would grant them His tender mercy on this beachhead, or the next. They somehow knew that word of the invasion was spreading through the darkness back home. That in Georgia, they were filling the churches at 4 a.m. That in Kansas, they were kneeling and praying on their porches. And in Philadelphia, they were ringing the Liberty Bell.''

To all our vets, and especially the World War II vets, let us say a special thanks to them this Memorial Day.

PRESCRIPTION DRUG BENEFIT

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, I want to stress again, as I have many times over the last 2 weeks, the fact that the Republican leadership has not brought up any type of prescription drug benefit. Two or 3 weeks ago we saw members of the Republican leadership in both the committees and various leadership positions say they were going to bring up a prescription drug benefit for seniors. They committed to the fact that that would be in committee last week. It would be reported out to the floor of the House, and would be voted on the floor this week before the Memorial Day recess. All of a sudden we hear nothing about it, no mention of trying to bring any action in committee, no specifics about what they might bring up, certainly no effort to bring anything to the floor.

I have said over and over again, this is the biggest crisis facing the American people, particularly seniors. I have seniors every day that call me up and say they cannot afford prescription drugs. What we need to do and what the Democrats have been saying over and over again is that we should simply provide a prescription drug benefit under Medicare so that every senior has a guaranteed benefit, and in the same way they have their hospital bills paid for by Medicare, or doctor bills paid for by Medicare Part B, there should be a new Part C or D under Medicare where they pay a very low premium, a very low deductible per month, and the Federal Government pays at least 80 percent of the cost of their prescription drug bills.

We need to bring the cost of prescription drugs down. Seniors and people in general, Americans in general, cannot afford prescription drugs because of the increased costs. We have had double-digit inflation with regard to drug prices for the last 6 years. The Republicans refuse to provide a Medicare prescription drug benefit for seniors, and refuse to address the issue of cost. If we had all seniors under a Medicare program, as the Democrats have proposed, 40 million seniors, the Secretary of Health and Human Services would be able to negotiate reduced prices for prescription drugs because the government would have the negotiating power of all of the seniors in the United States, 40 million strong.

We must address the issue of cost and provide a Medicare benefit that includes prescription drugs. I do not understand why my colleagues continue to drag on the issue. Some of the talk is maybe they will provide a low-income benefit for just the poorest seniors, under 10 percent of the seniors. Other times we hear about their proposals to privatize, in other words, take some money and throw it to insurance companies and hope that they will provide some sort of drug-only policy for those seniors who might be able to find an insurance company that will sell them such a policy.

But these ideas on the Republican side about throwing some money to insurance companies, trying to help those with low income, they do not get to the real problem and the real solution, and that is a nationwide Medicare prescription drug benefit that every senior has and every senior is guaranteed. We have seen now for 30 years how effective the Medicare program is in terms of taking care of hospital bills and taking care of doctors' bills.

Mr. Speaker, why not just expand the program to include prescription drugs. It is a program that works. This is not an ideological problem. We are not trying to figure out who is on the right or left, who is a Democrat or Republican. We want to do something that is practical, that is meaningful for the average American, particularly for the average American senior.

The Democrats are going to be up here every day and every night asking the Republicans to bring up a prescription drug benefit, to have a debate and do something about this between now and the end of this session. The number of days that we are going to be here gets shorter and shorter. If this is not brought up soon, certainly after the Memorial Day recess, it is very unlikely that we will see action on it before the end of the session. Bring up a prescription drug benefit, put it under Medicare, make sure that it applies to all seniors and we have a cost mechanism to reduce cost. Anything less than that is not fair to America's seniors.

NEW YORK DONATES WORLD TRADE CENTER STEEL TO SACRED HEART CATHOLIC CHURCH

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentlewoman from New Mexico (Mrs. WILSON) is recognized during morning hour debates for 5 minutes.

Mrs. WILSON of New Mexico. Mr. Speaker, this is a very special day. Something special is happening in New York City this morning. There is a small church in Barelas in the old part of Albuquerque, New Mexico called Sacred Heart Roman Catholic Church. In the 1970s, they had to tear down their church because it was structurally unsound. It had two bell towers. They rebuilt the church across the street, but the bells were lost until recently, and they found one of the huge bells and they are now going to rebuild the bell tower.

Some leaders in the community contacted me and the Archbishop and wrote to the mayor of the City of New York and asked for two beams from the World Trade Center to incorporate into the design of the new bell tower. Some people from New Mexico, including Father Moore and John Garcia and Sosimo Padilla and a member of my staff, are in New York this morning at ground zero picking up those two beams that were given to us by the City of New York.

Those bells at the Barelas bell tower rang when World War II ended. They rang for weddings and funerals. They rang every Sunday morning over the City of Albuquerque to call people to worship. We are pleased in Albuquerque and thankful to the people of New York that the bell towers will be rebuilt and the bells will ring again. They will ring in remembrance, and they will ring in the call to worship.

Sacred Heart Roman Catholic Church in Albuquerque is a beautiful church where about 800 people meet to worship. The Church, including twin bell towers, was razed in the mid-1970s because of structural problems, and its two bronze bells disappeared. One bell was found recently in a back yard, the other remains missing. The Church has been rebuilt and plans to build a new bell tower. This need and an inspired idea were the beginning of a wonderful journey that has brought together the people of New Mexico and the citizens of New York.

The bells in Barelas rang when the war ended. They rang for weddings and for funerals. They rang to call people to prayer. Now they will ring again in remembrance.

New Mexico Archbishop Michael Sheehan and I wrote to New York Mayor Bloomberg in January about the community's hopes to use steel from the World Trade Center to rebuild a bell tower for the Church. The Barelas Community Development Center spearheaded this effort to revitalize the neighborhood with this landmark as the center of the community.

New York City has agreed to donate two 20-foot steel beams from the World Trade Center for a Bell Tower at the Sacred Heart Church. The beams will be incorporated into the design of the tower and memorialize victims of the September 11 terrorist attacks.

Many people deserve a lot of credit for making this a reality. John Garcia and Sosimo Padilla thought they could make this happen, and they sought assistance from me and others. And they did it.

We saw the face of evil on September 11th. And in the aftermath, we saw the depth of America's goodness and a return to simple faith. New Mexico will rebuild this bell tower and remember. We are a strong, loving people and a faithful people. This bell tower will remind us and call us to worship for many years to come.

After the attacks on September 11, President Bush said that terrorism cannot dent the steel of American resolve. I agree. These beams, this parish, this community, represent the strength of our American character and all the best our Nation has to offer. I'm honored to be a part of this.

Today, a delegation of New Mexicans are in New York to accept the beams in a ceremony. Traveling to New York are John Garcia; the Rev. James Moore of the Sacred Heart Church; Sosimo Padilla, head of the church's bell committee; Sam Tinker, a local business owner who volunteered to transport the steel, and a representative from my staff, Dawn Petchell, who assisted in this request.

I also want to thank Southwest Airlines who donated airfare for the New Mexico delegation to go to New York, and to Bob Turner's Ford Country who donated a large flag to drape over the steel beams as they travel to the State. The Albuquerque Hispano Chamber of Commerce is planning a celebration to welcome the steel beams to New Mexico.

PRESCRIPTION DRUG BENEFIT

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Texas (Mr. RODRIGUEZ) is recognized during morning hour debates for 5 minutes.

Mr. RODRIGUEZ. Mr. Speaker, it is shameful that our seniors are still without a workable prescription drug benefit program. Because of the rapid increase in the price of prescription drugs, and the costs related to medical care, the price of medicine is now out of reach of millions of seniors. Tragically, many of our seniors are now faced with a choice between food and prescription drugs.

I go home, and every weekend people continue to reach out and tell me they have a problem with buying their prescriptions. I had a lady come to me and say I have to buy the prescription for my husband, and I choose not to buy for myself. We continue to hear that day in and day out. It is shameful that we have not taken a position on this.

As Democrats, we support a prescription drug benefit plan that covers all seniors that is voluntary and universal. No senior would be faced with a prospect of not being able to afford medicine regardless of income. We understand back in the 1960s when we established Medicare that if Lyndon B. Johnson had known that prescriptions were needed at that time, and now we know that they are needed for care, they would have been included in the Medicare process.

We also know that the insurance companies, even back then, the reason why we have Medicare is because the insurance companies, as soon as the elderly were getting sick, they were being dumped. As soon as they were not making a profit on the senior citizens, they were being let go. We know now that the proposal that the Republicans have, and that is to try to provide an additional insurance to our seniors who have a fixed income who cannot afford additional insurance, who the insurance companies do not want because if they get sick, they are going to be dumped again, very similar to what the HMOs are doing now in those situations where they are not making a profit.

We looked at Medicare, and we know that we tried to bring down the cost and we established HMOs so that we would bring down the cost, but we know now that the HMO has actually cost us more than Medicare services. We need to stop playing around and respond to this serious issue before us, and that is meeting the needs of our seniors and the prescription drugs that they need.

We also recognize that those same prescriptions, and this is a crime, those same prescriptions are sold outside this country for cheaper prices, and our seniors who can least pay for them are the ones that are having to carry the burden. This is where the profits are being made from the pharmaceutical companies. It should be a crime for this to be occurring.

Mr. Speaker, we need to pass a meaningful prescription drug plan that uses Medicare to make drugs affordable and provide universal voluntary benefits for all seniors. Congress can vote to bail out Enron, and they can also vote to help the most wealthy of this country by providing them tax cuts, but we do not take care of our elderly, and that is shameful. While the Republican proposals claim to help seniors, it does not cover all seniors, and it provides no real guarantees for coverage.

The much more narrowly constructed House Republican plan would not reach many middle class Americans. Less than 6 percent would be covered. The reality is when you get sick and are in need, those private companies are not going to be there for us. They are not going to be there for our seniors. We need to make sure that Medicare provides this service. We need to make sure that we treat our seniors in an appropriate manner when they reach their twilight years.

Also, the Republican plan forces seniors to shop and buy a private insurance plan, making it a hassle for older Americans who will have to contend with insurance plans which come and go. As I have indicated, even the insurance companies are going to be trying to get those more healthy seniors out there so they can make a profit. We know most of our seniors, when they get ill, are going to need not 1, not 2, but some cases up to 8 to 10 prescriptions. Insurance companies are not going to want to cover those. The administration knows that, and we need to recognize that and be able to do the right thing when it comes to our seniors and treat them in a manner of dignity as we should.

In addition, the Republican plan does not address the rising cost of prescription drugs. We have talked about those costs. The pharmaceutical companies, it angers me because we know they are selling that same prescription in Canada and Europe for much less than what it is sold for to our seniors here. We ask and plead that we pass a prescription drug plan that benefits all.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 10 a.m. today.

Accordingly (at 9 o'clock and 20 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order at 10 a.m.

PRAYER

Pastor Ken Wilde, Capital Christian Center, Meridian, Idaho, offered the following prayer:

Dear Heavenly Father:

Today we rise with humility and thankfulness before our Creator and ask for divine assistance from Heaven. We are of all people grateful for the bountiful blessings that You have bestowed upon our great land. As this body of legislators now begins its day of deliberations, we ask that You send to them a supernatural ability to discern heaven-sent solutions; that there would come such divine breakthroughs in areas of legislative logjams that we all would say with one voice, the Lord God Almighty, He has helped us.

We pray that You would extend Your hand of health, strength, endurance, and grace to each Representative and their family members. As these men and women help steward our Nation we ask, as Jesus Christ asked, Your kingdom come, Your will be done in their earthly endeavors today. Give us all now a vision and a hope and a faith to lead this Nation into the divine destiny that You have ordained that America

achieve. May we be pleasing in Your sight and may there come a voice of unity that erupts from this corporate body saying as Nehemiah of the Bible said: The God of Heaven Himself will prosper us; therefore, we His servants will arise and build. Thank You for Your continued favor, aid and grace in this challenging hour. In Jesus' name, Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOME TO PASTOR KENNETH WILDE

(Mr. SIMPSON asked and was given permission to address the House for 1 minute.)

Mr. SIMPSON. Mr. Speaker, I want to introduce to the House of Representatives the Pastor Kenneth Wilde. Pastor Wilde is the founder and executive director of the National Prayer Center headquartered in Washington, D.C. This important facility's primary function is to be a place of prayer for our Nation and its leaders. The center is open to Members of Congress and their staffs for times of prayer, devotion and spiritual encouragement.

Pastor Wilde is also the senior pastor at Capital Christian Center in Meridian, Idaho, where he and his wife Connie have served for over 18 years. The Capital Christian Center is one of the largest churches in the State of Idaho. In addition, he has served as the Chaplain of the Idaho State Senate.

Pastor Wilde is a graduate of Idaho's Northwest Nazarene College where he received a bachelor's degree in political science and history. He has a passion to see churches and believers of all denominations rally together in unified prayer for a revival in our Nation.

Mr. Speaker, I want to commend Pastor Wilde for his thoughtful words this morning and let him know that I am honored to have a fellow Idahoan share his faith and wisdom with the House of Representatives during these trying times in our Nation's storied history.

PRIVATE CALENDAR

The SPEAKER pro tempore (Mr. ISAKSON). This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

NANCY B. WILSON

The Clerk called the bill (H.R. 392) for the relief of Nancy B. Wilson.

Mr. COBLE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

SARABETH M. DAVIS, ROBERT S. BORDERS, VICTOR MARON, IRVING BERKE, AND ADELE E. CONRAD

The Clerk called the resolution (H. Res. 103) referring the bill (H.R. 1258) entitled ''A bill for the relief of Sarabeth M. Davis, Robert S. Borders, Victor Maron, Irving Berke, and Adele E. Conrad,'' to the chief judge of the United States Court of Federal Claims for a report thereon.

There being no objection, the Clerk read the resolution as follows:

H. RES. 103

Resolved,

SECTION 1. REFERRAL.

Pursuant to section 1492 of title 28, United States Code, the bill (H.R. 1258), entitled ''A bill for the relief of Sarabeth M. Davis, Robert S. Borders, Victor Maron, Irving Berke, and Adele E. Conrad'', now pending in the House of Representatives, is referred to the chief judge of the United States Court of Federal Claims.

SEC. 2. PROCEEDINGS AND REPORT.

Upon receipt of the bill, the chief judge shall—

(1) proceed under section 2509 of title 28, United States Code; and

(2) report back to the House of Representatives, at the earliest practicable date, providing—

(A) findings of fact and conclusions of law that are sufficient to inform the Congress of the nature, extent, and character of the claim for the compensation referred to in the bill as a legal or equitable claim against the United States; and

(B) the amount, if any, legally or equitably due from the United States to the claimants.

The resolution was agreed to.

A motion to reconsider was laid on the table.

BARBARA MAKUCH

The Clerk called the bill (H.R. 486) for the relief of Barbara Makuch.

There being no objection, the Clerk read the bill as follows:

H.R. 486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT.

In consideration of the fact that Barbara Makuch—

(1) served 22 years as a foreign counterintelligence agent and dedicated her life to assist the Federal Bureau of Investigation in its efforts at the height of the Cold War to combat communism, the Komitet Gosudarstvennoy Bezopasnosti (KGB), and the Soviet Union,

(2) was presented the Louis E. Peters Memorial Service Award, the highest civilian award presented by the Federal Bureau of Investigation, for her valorous service, and

(3) has not received employment assistance or health, social security, or pension benefits, despite assurances that she would receive such benefits upon her retirement,

the Secretary of the Treasury shall pay, out of funds not otherwise appropriated, the sum of $1,000,000 to Barbara Makuch of East Amherst, New York, in compensation for the lifetime aggregate value of benefits earned but not received by Barbara Makuch.

SEC. 2. SATISFACTION OF CLAIM.

The sum paid under section 1 shall be in full satisfaction of any claims that Barbara Makuch may have against the United States arising out of her service for the Federal Bureau of Investigation.

SEC. 3. LIMITATION ON ATTORNEY FEES.

Not more than 10 percent of the sum paid under section 1 shall be paid to or received by any agent or attorney for services rendered in connection with the recovery of such sum. Any person who violates this section shall be fined under title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EUGENE MAKUCH

The Clerk called the bill (H.R. 487) for the relief of Eugene Makuch.

There being no objection, the Clerk read the bill as follows:

H.R. 487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT.

In consideration of the fact that Eugene Makuch—

(1) served as a foreign counterintelligence agent and dedicated his life to assist the Federal Bureau of Investigation in its efforts at the height of the Cold War to combat communism, the Komitet Gosudarstvennoy Bezopasnosti (KGB), and the Soviet Union, and

(2) has not received employment assistance or health, social security, or pension benefits, despite assurances that he would receive such benefits upon his retirement,

the Secretary of the Treasury shall pay, out of funds not otherwise appropriated, the sum of $1,000,000 to Eugene Makuch of East Amherst, New York, in compensation for the lifetime aggregate value of benefits earned but not received by Eugene Makuch.

SEC. 2. SATISFACTION OF CLAIM.

The sum paid under section 1 shall be in full satisfaction of any claims that Eugene Makuch may have against the United States arising out of his service for the Federal Bureau of Investigation.

SEC. 3. LIMITATION ON ATTORNEY FEES.

Not more than 10 percent of the sum paid under section 1 shall be paid to or received by any agent or attorney for services rendered in connection with the recovery of such sum. Any person who violates this section shall be fined under title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider is laid upon the table.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

IMMEDIATE DISASTER RELIEF FOR AMERICA'S FARMERS

(Mr. REHBERG asked and was given permission to address the House for 1 minute.)

Mr. REHBERG. Mr. Speaker, I again come to the well of this great Chamber to implore my colleagues to extend immediate and desperately needed disaster relief to tens of thousands of American farmers and ranchers now suffering from years of drought.

If Congress is to keep alive the American family farmer, we must act this year to provide immediate and necessary disaster assistance. Help is necessary for more than a dozen States crippled by the devastating one-two punch of adverse weather conditions and depressed commodity prices.

I ask my colleagues from ag-producing States and from ag-consuming States to join our fight to secure disaster assistance this year for our farm families before it is too late.

MAY IS ASIAN/PACIFIC AMERICAN HERITAGE MONTH

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, today I rise to invite my colleagues to join me in celebrating May as Asian/Pacific American Heritage Month.

The theme of this year's celebration is unity and freedom, which is an appropriate reminder that America is strong when people of all cultures and backgrounds unite.

Asian Americans have proudly contributed to America's culture, its physical landscape, and to its defense. Along the way, Asian Americans have had to endure many hardships, including the unnecessary internment of 120,000 Japanese Americans during World War II and the exclusion of Chinese immigrants beginning in 1882.

The lessons we learned then and the challenges we now face show us that in order to maintain the freedoms we enjoy today, we must unite as a country and face our challenges together as a Nation.

As the proud representative of the largest Vietnamese community outside of Vietnam, I salute my constituents and all Asian/Pacific Islander Americans during the month of May for their contributions and achievements that have helped to make America strong.

MEDICARE PHYSICIAN REIMBURSEMENTS

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, we are always being asked, what are you hearing out there? What are you hearing out there in your district? I will tell my colleagues what I am hearing. I am hearing, ''I cannot find a doctor.''

I receive countless calls and letters from people in Colorado regarding Medicare physician reimbursements and how it is affecting their access to doctors. Physicians have either decided to no longer accept any new Medicare patients or not see their current Medicare patients because they are losing money due to reimbursement payments not covering the costs. In Colorado Springs 2 months ago, one-third of all doctors under the Colorado Springs Health Partners program dropped all of their Medicare, Medicaid and Tricare patients.

So much focus over the last several years has been on preserving and strengthening the Medicare trust fund that we have lost sight of the fact that if a Medicare recipient cannot find a doctor, we have a program in name only. Unfortunately, in Colorado and many other parts of the country, that is what has happened. Reforms need to be implemented now to restore Medicare, the Medicare program, as it was intended to be.

I believe that reducing Medicare's physician payments will have a devastating impact on physician reimbursement and put at risk seniors' access to medical services.

PICTURES ON ENVELOPES

(Mr. LAMPSON asked and was given permission to address the House for 1 minute.)

Mr. LAMPSON. Mr. Speaker, National Missing Children's Day is coming up on May 25. I want to remind my colleagues about what we can do in our offices to help find missing children.

According to the FBI's National Crime Information Center, nearly 2,000 children are reported missing every day in our Nation. One in 6 children is recovered as a result of their picture being distributed, and it is vital that we do more to bring missing children home and safeguard our youth.

Printing the pictures of missing children on our envelopes is a simple way we can get involved and help take a stand against child abduction and victimization, making our districts safer for our constituents. It is simple. For more information on how to get pictures printed on your envelopes, contact the National Center for Missing and Exploited Children at 703–274–3900, and ask to speak to the Public Affairs Department.

By adding pictures to our office envelopes, we can help picture them home. Please, I say to my colleagues, let us not forget Ludwig Koons. He is being held in a compound in Italy where there is pornography and prostitution. We need to bring our children home, and we need help.

SEPTEMBER 11 PROGNOSTICATING

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, there are people in Washington who treat politics like a sport, and sometimes it gets rough. That should be no surprise. But some things should be off limits.

Mr. Speaker, for 8 months our country has been at war. It is a war that began when 19 evil men turned jumbo jets into missiles and killed 3,000 innocent people because they were Americans. Our President has led the world in a quest for justice. American soldiers are fighting and dying to keep the world safe, and President Bush has the awesome and heavy responsibility of commanding them.

But there is an election around the bend and some of our friends on the other side of the aisle have decided it is time to start attacking the President. They are attacking him for not making predictions he could not reasonably have made. They are attacking him for not connecting the dots between thousands of intelligence briefings that none of them could have connected either.

Mr. Speaker, this is wrong. When our fighting men and women are risking everything to keep us safe, the least we can do is to put partisanship aside.

SECRET PLAN FOR INCREASE IN DEFICIT SPENDING

(Mr. EDWARDS asked and was given permission to address the House for 1 minute.)

Mr. EDWARDS. Mr. Speaker, rumor has it that the Republican leadership has a secret plan to allow an increase in deficit spending by $750 billion without even requiring a vote on it in the House. To do so would be wrong, and for several reasons.

First, we have a responsibility to our children and grandchildren to try to balance our budget and not break their backs with the burden of an ever-increasing national debt, which is already $6 trillion, the interest on which cost taxpayers last year alone $360 billion in taxes paid.

Second, deficit spending puts at risk Social Security and Medicare. We have a responsibility to our seniors to protect these 2 vital programs, but $750 billion in deficit spending would certainly undermine them.

I can understand why the Republican leadership would want to allow an enormous increase in deficit spending in secret and without a public vote, but to do so would be wrong; wrong for our children, wrong for our seniors, and wrong for Americans who believe in an open democracy.

MEMORIAL DAY MEMORIAL

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I come to the well here to express my concerns that Memorial Day is losing its true meaning. It has degenerated into a day

where only token nods of the head toward our honored dead are given, if at all.

Many people do not know that at 3 p.m. on Memorial Day, we should take a moment of silence in recognition for the lives lost for freedom's sake. But we cannot blame the American public. After all, it was Congress that made the day into a 3-day weekend in the early 1970s. By comparison, Mr. Speaker, Veterans' Day is celebrated on November 11, regardless of which day of the week it falls on, and Memorial Day should also be the same.

Mr. Speaker, in honor of the thousands of men and women who have given their lives fighting for the freedom we enjoy today, and those currently fighting for the freedom we will enjoy tomorrow, let us restore Memorial Day to its original date, May 30. We owe our loved ones and friends who died in service to our country a restored Memorial Day.

CHICKENS COME HOME TO ROOST

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, tomorrow the chickens come home to roost for the Republicans. After destroying a $5 trillion surplus and giving away $4 trillion in tax cuts to the wealthiest people in the country, tomorrow the Republicans must take the first step in authorizing an additional $750 billion in deficit spending, Mr. Speaker; $750 billion that this Nation does not have because of the Republican giveaways in the tax cut, and $750 billion that unfortunately now must come directly out of the Social Security Trust Fund.

Remember all of those promises about a lock box, about a super lock box, how they would never use Social Security for any other purpose? All of those promises go by the wayside tomorrow, because tomorrow is the first step when the Republicans vote to increase by $750 billion of spending that is taken directly from Social Security.

□ 1015

What does that mean to Social Security recipients? It means that Social Security is less secure. Eventually, it means that the age limit is going to have to be raised, and then the Republicans will have to work on their plan to privatize Social Security. The last time they privatized something, it was the energy markets; and the next thing we saw was the Enron Corporation.

REPUBLICAN TAX CUT MEANS LOWER TAXES FOR THE POOR

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, before our tax cut, the top 50 percent of taxpayers paid 96 percent of all the taxes paid in the country. After this tax cut, the top 50 percent of taxpayers pay 97 percent of all the taxes paid in this country.

Let us say it another way, Mr. Speaker. Before the tax cut, the lower 50 percent of taxpayers paid 4 percent of all the taxes in the country. After the tax cut, they pay only 3 percent of all the taxes in the country.

Help me understand, Mr. Speaker, how this tax cut was a tax break for the rich. It seems to me it was a tax break for the poor, because the lower 50 percent of taxpayers now pay only 3 percent of the total taxes, rather than 4 percent. Mr. Speaker, that is a 25 percent decrease in the taxes paid by the lower 50 percent.

REPUBLICAN PLAN TO PRIVATIZE SOCIAL SECURITY

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the American people deserve to know what the Republican Congress and the President are going to do to Social Security. They have proposed a vague plan, a plan they say is voluntary, that would create individual accounts for those who choose to invest a portion of that money in the stock market. They say that these accounts will earn retirees a higher rate of return.

But what they do not tell the voters and they do not tell the American seniors about is that changing to this new system will result in cutting benefits, cutting benefits for Social Security retirees across the board.

So even though the accounts themselves may be technically voluntary, the benefit cuts are very much mandatory; and if a retiree does not want to risk his or her benefits in an increasingly shaky stock market, fine, but his or her guaranteed monthly check will not equal what it is today. If they have a higher rate of return on their account than the government will allow, what they do not tell us is that in fact the government is going to tax that rate of return at 100 percent.

Mr. Speaker, the simple fact is that the Republican plan cuts benefits for today's retirees, those in the future, and puts them at risk. Let us not let them do it.

COMMENDING THE 106TH RESCUE WING OF THE NEW YORK AIR NATIONAL GUARD

(Mr. GRUCCI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRUCCI. Mr. Speaker, on May 16 the 106th Rescue Wing of New York's Air National Guard completed their 292nd successful life-saving rescue. Based out of Gabreski Airport in West Hampton Beach on the East End of Long Island, the 106th Rescue Wing was called to rescue three people whose sailboat mast had broken in the rough North Atlantic seas about 600 miles south of Long Island. The members of the 106th Rescue Wing are nothing short of heroes: 292 people owe their lives to the heroic efforts of the brave members of the 106th Rescue Wing, currently under the command of Colonel Robert J. Stack. The 106th Rescue Wing epitomizes the bravery and professionalism of our men and women in uniform.

Mr. Speaker, on behalf of the First District of New York, home to the 106th Rescue Wing, a grateful Nation and 292 people who would not be here today without the efforts of the 106th, I ask my colleagues to join me in congratulating the 106th Rescue Wing of the Air National Guard.

PATRIOTISM REQUIRES OPPOSING PRIVATIZATION OF SOCIAL SECURITY TRUST FUND AND INVESTIGATING SEPTEMBER 11 TRAGEDY

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I join my colleagues with their concerns about the undermining of Social Security preservation and safety for our seniors; and we must fight against both the privatization and the invading of the trust fund, which will happen tomorrow, unfinished business that we must stand up and be counted for and be patriotic on behalf of our seniors.

Might I, Mr. Speaker, suggest that it would be unpatriotic as well if we stood by and did not understand what happened on September 11. It would be unpatriotic, not to talk about politics and who is in the White House and who is not, but to find out why the INS failed in its duty in giving two dead terrorists visas.

It would be derelict on the part of Congress not to find out what FBI Director Mueller is talking about when he speaks about the potential of a suicide bomber. What information does Congress need to have in a confidential and executive session manner to protect the American people? What happened with the August and July memo?

Mr. Speaker, as a member of the Committee on the Judiciary, I would say it would be unpatriotic if we did not establish what happened so we could save lives and begin to have a road map that would make sure that we understood what happened here in America. It would be unpatriotic, Mr. Speaker; and we in Congress must do our job.

TOMORROW THE HOUSE WILL TAKE ONE MORE STEP TOWARDS UNDERMINING SOCIAL SECURITY

(Mr. MCDERMOTT asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, I think that this is a very important day for people to be paying attention. Tomorrow, we are going to come out here, and we are going to take one more step toward undermining Social Security.

Now, the majority has said for a long time they wanted to privatize it; and certainly if we do not fund it, there is not going to be anything left except people doing it privately.

But tomorrow is the day we start. We have not dealt with any of the issues that are before this Congress of any import. We have not dealt with the pharmaceutical benefit for seniors. We have not dealt with a whole bunch of other things.

But what are they doing tomorrow? They are passing more money out the door to fund the tax cuts for the rich. That is the reason they are borrowing tomorrow, is because the bill is coming due. In fact, today we are going to actually make another move to raise the debt some more.

Why do we not face the fact that we ought to think about the poor and the elderly and what their benefits are going to be in the future?

TRIBUTE TO SERGEANT GENE ARDEN VANCE AND THE WEST VIRGINIA NATIONAL GUARD

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Mr. Speaker, over the weekend the war on terrorism claimed another casualty, the first casualty of a National Guardsman and the first casualty from my home State of West Virginia.

Sergeant Gene Arden Vance of Morgantown, West Virginia, was killed in eastern Afghanistan after his unit came under heavy fire. Sergeant Vance served in the 19th Special Forces Unit of the West Virginia National Guard and has been stationed in the Middle East for the past 5 months.

Like many National Guardsmen, Sergeant Vance lived a productive life in his local community, working at the local bicycle and kayak outfitting shop in Morgantown while maintaining his training and skill to be called on to serve his country on a moment's notice.

On September 11, newly married and just beginning a new semester at West Virginia University, he put his studies and his honeymoon on hold to fight terror in the name of freedom. As an American, it is difficult to hear of any soldier dying in the name of freedom, but in this instance it is especially sad to me and my fellow West Virginians because Sergeant Vance was one of our own.

Sergeant Vance died honorably in service to his country. His story of leaving his home to be called to help fight the war on terrorism is the story of many other men and women who serve in our National Guard. Their heroic and noble dedication is an invaluable part of America's work in defending liberty.

On behalf of the men and women of the Second Congressional District of West Virginia, I would like to extend our deepest condolences to Sergeant Vance's family and loved ones. Our thoughts and our prayers are with them at this very difficult time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions may be taken in two groups, the first occurring before the debate has concluded on all motions to suspend the rules, and the second after the debate has concluded on the remaining motions.

DOT KIDS IMPLEMENTATION AND EFFICIENCY ACT OF 2002

Mr. UPTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3833) to facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3833

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Dot Kids Implementation and Efficiency Act of 2002''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the World Wide Web presents a stimulating and entertaining opportunity for children to learn, grow, and develop educationally and intellectually;

(2) Internet technology also makes available an extensive amount of information that is harmful to children, as studies indicate that a significant portion of all material available on the Internet is related to pornography;

(3) young children, when trying to use the World Wide Web for positive purposes, are often presented—either mistakenly or intentionally—with material that is inappropriate for their age, which can be extremely frustrating for children, parents, and educators;

(4) exposure of children to material that is inappropriate for them, including pornography, can distort the education and development of the Nation's youth and represents a serious harm to American families that can lead to a host of other problems for children, including inappropriate use of chat rooms, physical molestation, harassment, and legal and financial difficulties;

(5) young boys and girls, older teens, troubled youth, frequent Internet users, chat room participants, online risk takers, and those who communicate online with strangers are at greater risk for receiving unwanted sexual solicitation on the Internet;

(6) studies have shown that 19 percent of youth (ages 10 to 17) who used the Internet regularly were the targets of unwanted sexual solicitation, but less than 10 percent of the solicitations were reported to the police;

(7) children who come across illegal content should report it to the congressionally authorized CyberTipline, an online mechanism developed by the National Center for Missing and Exploited Children, for citizens to report sexual crimes against children;

(8) the CyberTipline has received more than 64,400 reports, including reports of child pornography, online enticement for sexual acts, child molestation (outside the family), and child prostitution;

(9) although the computer software and hardware industries, and other related industries, have developed innovative ways to help parents and educators restrict material that is harmful to minors through parental control protections and self-regulation, to date such efforts have not provided a national solution to the problem of minors accessing harmful material on the World Wide Web;

(10) the creation of a ''green-light'' area within the United States country code Internet domain, that will contain only content that is appropriate for children under the age of 13, is analogous to the creation of a children's section within a library and will promote the positive experiences of children and families in the United States; and

(11) while custody, care, and nurture of the child reside first with the parent, the protection of the physical and psychological well-being of minors by shielding them from material that is harmful to them is a compelling governmental interest.

(b) PURPOSES.—The purposes of this Act are—

(1) to facilitate the creation of a second-level domain within the United States country code Internet domain for the location of material that is suitable for minors and not harmful to minors; and

(2) to ensure that the National Telecommunications and Information Administration oversees the creation of such a second-level domain and ensures the effective and efficient establishment and operation of the new domain.

SEC. 3. NTIA AUTHORITY.

Section 103(b)(3) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 902(b)(3)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(C) shall assign to the NTIA responsibility for providing for the establishment, and overseeing operation, of a second-level Internet domain within the United States country code domain in accordance with section 157.''.

SEC. 4. CHILD-FRIENDLY SECOND-LEVEL INTERNET DOMAIN.

The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended in part C by adding at the end the following new section:

''SEC. 157. CHILD-FRIENDLY SECOND-LEVEL INTERNET DOMAIN.

''(a) RESPONSIBILITIES.—The NTIA shall require the registry selected to operate and

maintain the United States country code Internet domain to establish, operate, and maintain a second-level domain within the United States country code domain that provides access only to material that is suitable for minors and not harmful to minors (in this section referred to as the 'new domain').

''(b) CONDITIONS OF CONTRACT RENEWAL.—The NTIA may not renew any contract to operate and maintain the domain with the initial registry, or enter into or renew any such contract with any successor registry, unless such registry enters into an agreement with the NTIA, during the 90-day period beginning upon the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002 in the case of the initial registry or during the 90-day period after selection in the case of any successor registry, as applicable, which provides for the registry to carry out, and the new domain operates pursuant to, the following requirements:

''(1) Written content standards for the new domain, except that the NTIA shall not have any authority to establish such standards.

''(2) Written agreements with each registrar for the new domain that require that use of the new domain is in accordance with the standards and requirements of the registry.

''(3) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to use the new domain in accordance with the standards and requirements of the registry.

''(4) Rules and procedures for enforcement and oversight that minimize the possibility that the new domain provides access to content that is not in accordance with the standards and requirements of the registry.

''(5) A process for removing from the new domain any content that is not in accordance with the standards and requirements of the registry.

''(6) A process to provide registrants to the new domain with an opportunity for a prompt, expeditious, and impartial dispute resolution process regarding any material of the registrant excluded from the new domain.

''(7) Continuous and uninterrupted service for the new domain during any transition to a new registry selected to operate and maintain new domain or the United States country code domain.

''(8) Procedures and mechanisms to promote the accuracy of contact information submitted by registrants and retained by registrars in the new domain.

''(9) Operationality of the new domain not later than one year after the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002.

''(10) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to prohibit two-way and multiuser interactive services in the new domain, unless the registrant certifies to the registrar that such service will be offered in compliance with the content standards established pursuant to paragraph (1) and is specifically constructed and operated to protect minors from harm.

''(11) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to prohibit hyperlinks in the new domain that take new domain users outside of the new domain.

''(12) Any other action that the NTIA considers necessary to establish, operate, or maintain the new domain in accordance with the purposes of this section.

''(c) TREATMENT OF REGISTRY AND OTHER ENTITIES.—

''(1) IN GENERAL.—Only to the extent that such entities carry out functions under this section, the following entities are deemed to be interactive computer services for purposes of section 230(c) of the Communications Act of 1934 (47 U.S.C. 230(c)):

''(A) The registry that operates and maintains the new domain.

''(B) Any entity that contracts with such registry to carry out functions to ensure that content accessed through the new domain complies with the limitations applicable to the new domain.

''(C) Any registrar for the registry of the new domain that is operating in compliance with its agreement with the registry.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall be construed to affect the applicability of any other provision of title II of the Communications Act of 1934 to the entities covered by subparagraph (A), (B), or (C) of paragraph (1).

''(d) EDUCATION.—The NTIA shall carry out a program to publicize the availability of the new domain and to educate the parents of minors regarding the process for utilizing the new domain in combination and coordination with hardware and software technologies that provide for filtering or blocking. The program under this subsection shall be commenced not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

''(e) COORDINATION WITH FEDERAL GOVERNMENT.—The registry selected to operate and maintain the new domain shall—

''(1) consult with appropriate agencies of the Federal Government regarding procedures and actions to prevent minors and families who use the new domain from being targeted by adults and other children for predatory behavior, exploitation, or illegal actions; and

''(2) based upon the consultations conducted pursuant to paragraph (1), establish such procedures and take such actions as the registry may deem necessary to prevent such targeting.

The consultations, procedures, and actions required under this subsection shall be commenced not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

''(f) COMPLIANCE REPORT.—The registry shall prepare, on an annual basis, a report on the registry's monitoring and enforcement procedures for the new domain. The registry shall submit each such report, setting forth the results of the review of its monitoring and enforcement procedures for the new domain, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

''(g) SELECTION OF CONTRACTOR.—

''(1) WITHDRAWAL OF REGISTRY.—

''(A) ELECTION BY REGISTRY.—Upon a good faith showing by the registry of the new domain to the NTIA of extreme financial hardship in the operation of the new domain occurring any time after the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002, the registry may elect to relinquish the right to operate and maintain the new domain. Notwithstanding the time of occurrence of such extreme financial hardship or the time of such election, the registry may not relinquish such right before the expiration of the 3-year period beginning upon such date of enactment.

''(B) SELECTION OF NEW CONTRACTOR.—If the registry elects to relinquish such right pursuant to subparagraph (A), the NTIA shall select a contractor to operate and maintain the new domain under the competitive bidding process established pursuant to paragraph (2).

''(C) EXTREME FINANCIAL HARDSHIP.—For purposes of this paragraph, the term 'extreme financial hardship' means that each quarter, for a period of 6 or more consecutive quarters, the costs of establishing, operating, and maintaining the new domain exceed the revenues generated from registrants by more than 25 percent.

''(2) COMPETITIVE BID SELECTION PROCESS.—The NTIA shall establish a process for soliciting applications and selecting a contractor to operate and maintain the new domain pursuant to this subsection), which process shall comply with the following requirements:

''(A) TIMING.—The selection process shall commence and complete not later than (i) 120 days after the registry elects to relinquish the new domain for extreme financial hardship, or (ii) the expiration of a contract referred to in paragraph (4), as applicable.

''(B) NOTICE.—The selection process shall provide adequate notice to prospective applicants of—

''(i) the opportunity to submit such an application; and

''(ii) the criteria for selection under subparagraph (C).

''(C) CRITERIA.—The selection shall be made pursuant to written, objective criteria designed to ensure—

''(i) that the new domain is operated and maintained in accordance with the requirements under subsection (b); and

''(ii) that the contractor selected to operate and maintain the new domain is the applicant most capable and qualified to do so.

''(D) REVIEW.—Not more than 60 days after the conclusion of the period established for submission of applications, the NTIA shall—

''(i) review and apply the selection criteria established under subparagraph (C) to each application submitted; and

''(ii) based upon such criteria and subject to submission of an application meeting such criteria, select an application and award to the applicant a subcontract for the operation and maintenance of the new domain.

''(E) FAILURE TO FIND CONTRACTOR.—If the NTIA fails to find a suitable contractor pursuant to the process under this paragraph, the NTIA shall permit the registry to cease operation of the new domain.

''(3) RIGHTS AND DUTIES.—A contractor selected pursuant to this subsection shall have all of the rights and duties of the registry specified under this section, except that such duties shall not include the technical maintenance of the new domain.

''(4) CONDITIONS OF CONTRACT RENEWAL.—In the case of the expiration of a contract for operation and maintenance of the new domain with a contractor selected pursuant to paragraph (2), the NTIA may renew such contract or, subject to paragraph (2), rebid the contract to a new contractor. Nothing in this section shall be construed to prevent the registry of the United States country code Internet domain from bidding to become the contractor of the new domain.

''(h) SUSPENSION OF NEW DOMAIN.—If the NTIA finds, pursuant to its own review or upon a good faith petition by the registry, that the new domain is not serving its intended purpose, the NTIA shall instruct the registry to suspend operation of the new domain until such time as the NTIA determines that the new domain can be operated as intended.

''(i) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) HARMFUL TO MINORS.—The term 'harmful to minors' means, with respect to material, that—

''(A) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, that it is designed to appeal to, or is designed to pander to, the prurient interest;

''(B) the material depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

''(C) taken as a whole, the material lacks serious, literary, artistic, political, or scientific value for minors.

''(2) MINOR.—The term 'minor' means any person under 13 years of age.

''(3) REGISTRY.—The term 'registry' means the registry selected to operate and maintain the United States country code Internet domain

''(4) SUITABLE FOR MINORS.—The term 'suitable for minors' means, with respect to material, that it—

''(A) is not psychologically or intellectually inappropriate for minors; and

''(B) serves—

''(i) the educational, informational, intellectual, or cognitive needs of minors; or

''(ii) the social, emotional, or entertainment needs of minors.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. UPTON) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. UPTON).

GENERAL LEAVE

Mr. UPTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. UPTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, sometimes I think that the World Wide Web should be renamed perhaps the World's Wicked Web. I woke up this morning listening to the Today Show, and I heard this very sad case of a young girl in Danbury, Connecticut. I read from CNN: ''The body of a 13-year-old girl missing since Friday has been found. The FBI has arrested a Brazilian national living in Connecticut who allegedly met the girl on the Internet, the agency said Monday. Christina Long's body was found Monday. She had been missing since Friday evening.'' She had been contacted through a chat room on the Internet.

Last week in Kalamazoo, Michigan, we held a hearing on chat rooms. We know as parents that there is no better way to watch over our children than with parental involvement. The story, whether it be in Danbury Connecticut, or other communities across the country, is a nightmare waiting to happen in virtually anyplace in the country.

Last Friday, I visited an elementary school just outside of Kalamazoo, Northeastern Elementary School, where I spoke to about 80 or 90 sixth grade children. I asked the question, as I often do as I go to an elementary school, how many of you use the Internet on a fairly routine basis? They all raised their hands, every one of them.

I then asked the question: How many of you have seen something that is inappropriate coming into your house or your classroom on that Internet? And again, virtually every hand went up.

Mr. Speaker, what this legislation does is creates a new domain for the Internet. Like we have a dot-org and a dot-com and a dot-gov, we are now going to have a dot-kids. Actually, it may be a dot-kids dot-U.S. It may be a dot-Disney dot-kids; it may be a dot-Boy Scouts or dot-Girl Scouts, it may be a dot-games. But whatever it is, it will be aimed and earmarked towards children that are 12 and under. In essence, it will be a children's section of the library.

When my 10-year-old son, Stephen, goes to the library in my hometown, I know that that children's library in the basement of the Maud Preston Palenske Memorial Library has children's books and he is safe in that area. We know that as 10- and 12-year-olds and even 9-year-old children, they often have their own Internet identity name. They use the Internet for their school and home. They chat with their friends.

As parents, we want to make sure that they are safe, because that Internet will be their tool of learning for business and school the rest of their lives. But obviously, for so many of those young minds, they are not ready for some of those folks that would like to lure and prey on them.

That is what this legislation does. By setting up a new domain, we as parents will know that that road map for them is a safe, safe place.

□ 1030

This legislation, Mr. Speaker, is bipartisan. It passed in the subcommittee and full committee without dissent. We had great leadership from the author of the bill, the gentleman from Illinois (Mr. SHIMKUS), the gentleman from Massachusetts (Mr. MARKEY), the ranking member of the subcommittee, my chairman, the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Michigan (Mr. DINGELL), the ranking member, the gentleman from Nebraska (Mr. TERRY) and other members of the subcommittee who were very involved in making sure this legislation passed and moved.

I would note that the bill has been endorsed by the National Center for Missing and Exploited Children, the Family Research Council, the American Center for Law and Justice, the National Law Center for Children and Families and a Safe America for Everyone, SAFE. And I want to thank them all for their support.

Mr. Speaker, this legislation is needed. As parents, as members in a community, we know that we can stop some of this awful stuff that comes to our homes. Mr. Speaker, when someone rings the doorbell or knocks on a door, often as we go to that door we look through the peephole, we look through the windows to see who is there before they come in. On the Internet you are not able to do that.

In so many cases we see other folks masquerading maybe as 12 or 13 or 15-year-old children. Maybe they are in their 40s or 50s looking to prey on our kids. We had an arrest last week in Kalamazoo, and they found out just in 72 hours that that individual had 20 other victims that he will probably be charged with as he moved across county lines to try and seek and prey on kids just like this very sad story of the young girl in Danbury, Connecticut.

Mr. Speaker, as Chairman of the House Energy and Commerce Subcommittee on Telecommunications and the Internet, I rise in strong support of H.R. 3833, the ''Dot Kids Implementation and Efficiency Act of 2002''. This bill was introduced by the gentleman from Illinois, Mr. SHIMKUS, the gentleman from Massachusetts, the ranking member of the Telecommunications and Internet Subcommittee, Mr. MARKEY, and myself—and the bill has 40 bipartisan cosponsors.

Mr. Speaker, more and more parents have recognized that they are losing some control over what enters their home as their children spend more and more time on the home computer surfing the Internet. While the Internet is an excellent tool for children to learn, there are all sorts of inappropriate material that—with just one wrong click—comes right into your living room, den, or bedroom—wherever the computer is located. I visit a school every week in my district, and at every middle school I ask for a show of hands about how many kids use the Internet, and about every hand goes up. I then ask how many have seen inappropriate material—pornography or bad language—and virtually every time about 80 percent of the hands stay in the air. This has got to stop.

While there is no substitute for proper parental supervision, responsible parents want more tools to assist them in protecting their kids on the Internet. Filters are one solution, but we believe more must be done to help.

The ''Dot Kids Implementation and Efficiency Act of 2002'' (H.R. 3833), would enable the establishment of a kid-friendly space on the Internet. We have made passage of this important bipartisan legislation, a top priority of the House Energy and Commerce Committee and its Telecommunications and Internet Subcommittee, and I want to thank Chairman TAUZIN and Ranking Member DINGELL for their assistance in moving this legislation forward.

Just like ''.com'', or ''.gov'', or ''.org''—''.kids'' will be an Internet address code, but the difference is that only websites with content which is both ''not harmful to minors'' and ''suitable for minors'' could get access. Under the bill, a ''minor'' is defined as a person 12 years old and under. The ''.kids'' space would be a safe place devoted solely to material which is appropriate for kids—where parents could choose to send their kids. This is really no different in concept than the children's section at the public library—which is the only part of the library where kids are allowed to check out books.

More specifically, the ''.kids'' space would be housed within our country's Internet code, otherwise known as ''.us'', which would result in ''.kids.us.''. For instance, if the Boy Scouts of America, whose website currently is: www.scouting.org, decided to set up an additional mirror site in the ''.kids.us'' space it

would be: www.scouting.kids.us. The U.S. Department of Commerce's National Telecommunications and Information Administration (NTIA) would oversee the implementation of ''.kids.us'', and while the bill stipulates that only websites with content that is ''not harmful to minors'' and is ''suitable for minors'' can get into the ''.kids.us'' space, the written content standards and rules of the road would be developed and enforced by the private sector, under the direction of the registry which has the contract from the Department of Commerce to manage the ''.us'' country code.

While the Supreme Court has cited the First Amendment as the basis for striking down previous efforts by Congress to protect kids on the Internet, H.R. 3833 is drafted in a manner which is consistent with the First Amendment. First, the proposal doesn't affect anyone's ability to put whatever kind of speech they want on the World Wide Web, on a ''dot com,'' ''dot net,'' ''dot org'' or anywhere else. This bill only addresses a subset of Internet—the ''dot us'' space. Moreover, it doesn't even curtail speech throughout the entirety of the ''dot us'' space. Speech more appropriate for adults or teenagers will not be affected by this bill and can appear elsewhere in the ''dot us'' space. The bill solely says that if you want to operate in the ''dot kids'' area—a subset of the ''dot us'' country code domain—you have entered a kid-friendly zone—where the content is suitable for children 12 and under. Again, this is completely voluntary for parents to use if they wish and content providers to avail themselves of if they are so inclined.

Moreover, now more than ever, parents recognize the dangers posed to their children in Internet chat rooms, where pedophiles can prey on children right in the comfort of the family living room. This is why the bill also bans chat rooms and instant messaging in the ''.kids.us'' space—unless such can be done without jeopardizing the safety of kids, through effective monitoring for example. Also, hyperlinks, which would take kids outside of the ''.kids.us'' space, would be banned.

Mr. Speaker, I would note that this bill has been endorsed by the National Center for Missing and Exploited Children, the Family Research Council, the American Center for Law and Justice, the National Law Center for Children and Families, and a Safer America For Everyone (SAFE), and I want to thank all of them for their support.

Again, I want to thank the gentleman from Illinois and the gentleman from Massachusetts for all of their hard work and perseverance on this bill, and I urge an ''aye'' vote on the bill on this measure which will help protect children and families on-line.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this bill. I am an original co-sponsor, along with the gentleman from Illinois (Mr. SHIMKUS), of this legislation as well as many other Members. I want to commend the gentleman from Louisiana (Mr. TAUZIN), the ranking member, the gentleman from Michigan (Mr. DINGELL) and everyone else who is involved with this excellent process that has led to a consensus, a bipartisan proposal.

The bill was approved unanimously by the House Committee on Energy and Commerce, and I want to congratulate the subcommittee chairman, the gentleman from Michigan (Mr. UPTON) for his fine work in the processing of this legislation. It is, in fact, a very good bill.

As many parents today know, the Internet often appears to be a veritable jungle of websites. When a child logs on to search for games, stories or educational material, search engines often churn up pages for kids laden with pornography, violence or other content that is simply not appropriate for young children. To give children their own playground on the Internet and to facilitate the easier browsing and filtering of contents that many parents desire, we have introduced H.R. 3833, the Dot Kids Implementation and Efficiency Act. This bill directs the Department of Commerce through the National Telecommunications and Information Administration to accelerate the creation of a dot kids domain by making it a secondary domain under our Nation's country code top level domain which is dot U.S. The Department of Commerce awarded a free contract last October to authorize private sector management and commercialization of dot U.S. Therefore, what we are talking about here today is the creation of a place on the Internet for websites that end in dot kids-dot U.S.; for example, www.example.Kids.U.S. The proposed ''dot kids'' domain will be a cyber space sanctuary for content that is suitable for kids and will be an area devoid of content that is harmful to such minors.

I want to address at this point very briefly some of the free speech concerns that any endeavor of this type will inevitably raise. First, let me emphasize how this approach departs from previous congressional activities in this policy area. First, the proposed legislation will not subject all of the Internet communications to a harmful-to-minors standard. If you are in Tennessee, Taiwan, or Timbuktu, you can publish or speak any content you want on the Internet. This proposal does not affect your ability to do so on a dot com, dot net, dot org or anywhere else. This proposal now only addresses a subset of Internet commerce, the dot U.S. space.

Moreover, it does not even curtail speech through the entirety of the dot U.S. country code domain. If you are in Providence, Rhode Island or Provo, Utah, under this bill you are free to exercise your constitutional rights and this legislation contains no proposal which would subject anyone utilizing the dot U.S. space to a standard suitable only for kids. Speech more appropriate for adults or teenagers will not be affected by this bill and can appear anywhere else in the dot U.S. domain.

The bill solely stipulates that if you want to operate in the dot kids areas, a subset of dot U.S. country code domain, you have entered a kid-friendly zone, a green light district, where the content is suitable for children 12 and under. The dot kids proposal is not aimed at censoring Internet contents, per se; rather, it is crafted to help organize content suitable for kids in a safe and secure cyber zone where the risk of young children clicking outside of that zone to suitable contents or being preyed upon or exploited online by adults posing as kids is vastly diminished.

Organizing kid-friendly contents in this manner will enhance the effectiveness of filtering software and enable parents to set their children's browsers so their kids only surf within the dot kids domain. I also want to emphasize that use of the dot kids domain is not compulsory. Signing up for a dot kids domain or parents sending their kids to websites in that location remains completely voluntary and the free choice of both speakers and parents.

Finally, I want to note that this bill is not meant in any way to diminish or thwart the many laudable private sector efforts to create new and affirmative ways for kids to have a safe and educational online experience. Our efforts here today are meant to supplement, not supplant, initiatives underway elsewhere by ensuring that our dot kids country code reflects our public interest goals as a society in a way that hopefully can harness the best of advanced technology for kids across the country.

Again, I want to thank the gentleman from Illinois (Mr. SHIMKUS) for his leadership on this legislation, and I want to thank the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Michigan (Mr. UPTON) for his excellent work in this area.

Mr. Speaker, I reserve the balance of my time.

Mr. UPTON. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the full committee.

Mr. TAUZIN. Mr. Speaker, I, too, want to join my friend, the gentleman from Massachusetts (Mr. MARKEY) in congratulating the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Michigan (Mr. UPTON) for the loving care they have given this legislation. And I think it is going to be landmark legislation for the kids of America in dealing with the Internet. And I want to thank the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Michigan (Mr. DINGELL) in particular for the great assistance they have played in putting this together and making something very good happen for the families of America.

Like other filtering tools, this is just another great tool that American families will have to have their children go to a site that is monitored and where they can enjoy, indeed, the tremendous potential of the Internet without being assaulted by so many of the bad features we find on the Internet. And I think this is exactly the right kind of response to the Supreme Court which

has recently ruled that virtual pornography is somehow protected under our Constitution. When you live on the Internet in a digital age, 1's and O's can be real. They can be virtual. They can be anything. And to say while one form of presentation is legally protected while another is not was a rather strange decision for our high court.

This is a good answer. This says regardless of what the court says about it, here is going to be a safe place for kids to go and enjoy, indeed, the tremendous educational entertainment features of the Internet without running into the bad features that somehow afflict their lives.

Again, I want to thank the chairman of our subcommittee, the gentleman from Michigan (Mr. UPTON), for his great work in working with us and, most importantly, to the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Massachusetts (Mr. MARKEY) for the excellent work they have done in putting this together.

We should also thank Senator Byron and Senator DORGAN on the Senate side who have done such a great job in advancing this legislation and give them great credit for, again, working across the two bodies and perfecting it.

Again, Mr. Speaker, that is a good day for kids in America, and I think the Committee on Energy and Commerce, particularly its Subcommittee on Telecommunications and the Internet, deserves a great deal of credit for bringing this legislation to the floor. I commend it to all Members. It deserves passage.

Mr. MARKEY. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Silicon Valley, California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank my wonderful colleague, the gentleman from Massachusetts (Mr. MARKEY) for yielding me time.

Mr. Speaker, I rise in support of the bill, the Dot Kids Implementation and Efficiency Act. I think it takes a very important step of trying to provide a kid-safe zone on the Internet. We know that in raising our children that we always wanted to keep them out of tough, rough neighborhoods, and I think that this important step will do that on the Internet for our Nation's children.

When we considered this bill at the subcommittee, I expressed my support for the intent of the bill, but I also raised some questions as to whether this approach was totally realistic. Through the efforts and the cooperation of the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. UPTON), and the bill's sponsors, the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Massachusetts (Mr. MARKEY), changes were made that in my view make the dot kids space a safe and more effective domain. And that is the way it should be as we work these bills from subcommittee to full committee to the floor.

To make the site more secure, the bill now contains language that prohibits interactive services in the domain. This protects users, the young children under the age of 13, from inappropriate emails, online discussions in chatrooms, and from intentionally or unintentionally being able to hyperlink their way to inappropriate contents.

For the agency and the companies charged with establishing the standards and securing the site, this is a monumental task. They must find a way to operate a domain that is educational and entertaining for young children and at the same time keep it secure from inappropriate outside influences. I am very pleased that the substitute now gives NTIA the authority to suspend operation of the new domain if it is not serving its intended purposes. The revised bill also gives Neustar the ability to relinquish its right to operate the domain if it suffers from extreme financial hardship. Because the costs of maintaining this domain are still imprecise, I think the allowance of an exit strategy is an important addition to the bill.

As this very well intended bill stands, it is still my strong belief that one of the best Internet filters for children is an involved parent. Nothing takes the place of that, not even government action and legislation. So I want to thank the sponsors of the bill, the work of the committee, certainly the full committee chairman, the ranking member, the gentleman from Michigan (Mr. DINGELL), certainly the gentleman from Massachusetts (Mr. MARKEY), one of the most eloquent and knowledgeable Members of Congress in this area, and the gentleman from Illinois (Mr. SHIMKUS). I think we are taking an important and a correct step today.

Mr. UPTON. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. SHIMKUS), the sponsor of the legislation, the one who shepherded this bill through the subcommittee and full committee. We appreciate his leadership on this with so many others.

(Mr. SHIMKUS asked and was given permission to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, it is with great pride that I rise today to speak on H.R. 3833, the Dot Kids Implementation and Efficiency Act of 2002.

First, I would like to thank my friend and colleague, the gentleman from the Commonwealth of Massachusetts (Mr. MARKEY) for his great work and efforts in education as we move this process forward.

□ 1045

Of course, my chairman, the gentleman from Michigan (Mr. UPTON), for believing in this concept and joining the team, I appreciate that, along with the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) for their great work.

We do our best work in the committee when we work together; and this floor, this House, does our best work together when we work together; and this is a perfect example of doing that.

Of course, we are only as good as the other members of our team. I have said this before in the committee briefings. Full committee staff Kelly Zerzan and Mike O'Rielly, I want to thank them. Chairman UPTON's staff, Will Nordwind, I thank him for his help; of course, the impeccable Collin Crowell from the staff of the gentleman from Massachusetts (Mr. MARKEY); Brendan Kelsay from the gentleman from Michigan's (Mr. DINGELL) staff; and my own Courtney Anderson who did a lot of lifting. Again, we are only as good as those people around us, and we have got a good team of staffers that do that well.

The development of the Internet has been a mixed blessing. It has moved our economy forward and provides us with a wealth of information after only a few strokes of the keyboard. Unfortunately, this new medium also has a dark side that holds a lot of danger for kids 12 and under.

In addition to adult content and violence that kids inadvertently stumble on as they surf the net, the recent well-publicized FBI sting of the Candyman child porn news group reminds us that child predators are running rampant in chat rooms and other places where they have the opportunity to interact and entice minors.

Following the logic of a child's section of a library, the Dot Kids Act will create a safe place for children on the Internet. H.R. 3833 facilitates the subdomain ''.KIDS.US,'' on our Nation's country code that will host content that is especially intended for children.

A number of safeguards were put in this bill. ''.KIDS.US'' will be monitored for content and safety; and should objectionable material appear, it will be taken down immediately. The legislation does not allow chat rooms, instant messaging or e-mails unless the entity hosting the site certifies that they will be done safely. Furthermore, hyperlinks, which would take children out of the safe ''.KIDS.US'' base are expressly prohibited.

Knowing that this child-friendly subdomain is a grand experiment, we have embedded in the bill an opt-out provision. If ''.KIDS.US'' turns into something it was not intended to be, the bill requires the Department of Commerce to take it down. While I believe strongly that there is a huge demand for a child friendly domain, if ''.KIDS.US'' is a place no one visits, then it can be eventually taken down.

Finally, ''.KIDS.US'' will cost the taxpayers nothing. When it comes to the Internet, there is no replacement for good parenting. However, ''.KIDS.US'' will promote good Internet content for children and will be a tool for parents to use to help keep their children safe online.

I urge my colleagues to join me this morning in voting to pass H.R. 3833. Again, I want to thank everyone that

has been involved, especially my good friend and colleague, the gentleman from Massachusetts (Mr. MARKEY). It has been a long road. We still have additional hurdles to overcome, but I am confident that we can get our friends in the other body to take this up expeditiously, get it passed, and get it to the President's desk.

Mr. MARKEY. Mr. Speaker, I yield myself as much time as I may consume.

The goal of this legislation is to try to harness the best of the new technology and to put it at the fingertips of kids and parents and teachers across the country.

One of the things we have to remember about technology and innovation is that the technology itself is neither good nor bad in and of itself. It only becomes so after it is animated by human values. The great truth of the Information Age is that the wondrous wire that brings cyberspace into the home or the school or the business will have a certain Dickensian quality to it. It will be both the best of wires and the worst of wires simultaneously.

The Internet can debilitate and debase core values, but it also can educate and ennoble us as well. The bill is designed to create a haven, a cyberspace playground to ennoble, educate and entertain children 12 and under in a safe and secure way. It is an additional tool that we can put into the hands of parents, and then each parent who decides to do so can use it as another weapon to fight off the debasing effect that parts of our culture can have upon children as they are growing up.

It is about time that Congress and the Federal Government put something on the books that gives this kind of a tool to the parents of the country.

My friend, the gentleman from Illinois (Mr. SHIMKUS), already went down the litany of saints, the staff who worked on this bill: Kelly Zerzan, Will Nordwind, Brendan Kelsay, Mike O'Rielly, and on my staff, Collin Crowell, who worked very closely with the majority in crafting this bill, and he mentioned Courtney Anderson on their side. My mother was a Courtney, and she always told me that the Courtneys are very intelligent people. And we have Courtney Johnson on our side who worked with Courtney Anderson on this bill, and I just did not want there to be a Courtney intelligence gap that opened up between the Democrats and Republicans on this bill. We were equally represented by these highly-intelligent people.

Mr. Speaker, I reserve the balance of my time.

Mr. UPTON. Mr. Speaker, might I inquire how much time is remaining on both sides.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Michigan (Mr. UPTON) has 9 minutes remaining. The gentleman from Massachusetts (Mr. MARKEY) has 7½ minutes remaining.

Mr. UPTON. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska (Mr. TERRY), a co-sponsor of the legislation, a very valuable member of the subcommittee.

(Mr. TERRY asked and was given permission to revise and extend his remarks.)

Mr. TERRY. Mr. Speaker, I am an enthusiastic supporter and original cosponsor. In fact, this is one of the reasons why I joined the Committee on Energy and Commerce and the Subcommittee on Telecommunications and the Internet is trying to find a safe harbor, a constitutional way of protecting our children on the Internet; and I was proud that two of my colleagues, the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Massachusetts (Mr. MARKEY), were already lapping me in there and allowed me to join them in that process, and I thank them for that because it is important that we establish a safe haven, a secure area for our children on the Internet.

We have heard of a story of an 11-year-old boy looking for computer games, typed in fun.com and unknowingly brought up a pornographic Web site. Two elections ago, my opponent was Michael Scott and any junior high physics class that typed in MichaelScott.com got a porn site. My 7-year-old, yes, 7-year-old, loves to get on the Internet, especially this weekend after we saw ''Spiderman.'' I stand over him. I type it in first because I fear that typing in something as simple as ''Spiderman'' or ''fun'' or a political name may bring up a pornographic Web site.

Nearly 24 million youths today use the Internet. By the year 2005, it is expected that 77 million youth will regularly log on. This bill will help preserve our children's innocence and prevent these types of sexual encounters and predators and pornography online. It will create a child-friendly zone within the United States. All contents of this zone will be appropriate for children 12 and under.

An independent firm will methodically monitor and immediately remove any content which is harmful to minors. No access to chat rooms, and this is an important fact, because it is not that we were just putting all the children in one safe, what we believe is a safe, area, so all the predators know where they are. We bar that. That is an important part of this bill, that there will not be any interactive component here where a predator can break in. This is so our children can have a safe haven.

Sexual predators, not only is it the pornographic Web sites that we are trying to keep away from our children, but it is the predators.

In my closing remarks here, I want to point out to my colleagues that the Crimes Against Children Research Center reported that one in five teenagers who regularly use the Internet have received an unwanted sexual solicitation, and one out of 33 youths have received what is classified as an aggressive sexual solicitation where they are directly trying to solicit a sexual meeting with a teenager. That is what we are trying to prevent with this legislation; and I appreciate the efforts of the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Illinois (Mr. SHIMKUS), and our chairman.

Mr. UPTON. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE), a fellow member of the Committee on Education and the Workforce, and one who is also very supportive of this legislation.

Mr. OSBORNE. Mr. Speaker, I would like to commend the gentleman from Michigan (Mr. UPTON) and the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Illinois (Mr. SHIMKUS) and others on the committee for this legislation.

Yesterday, a young woman who had been sexually assaulted asked me what Congress was going to do to address the problem. I mentioned my support of the Dot Kids legislation. As was made mention, Dot Kids provides a safe haven for children from Internet predators and sexually explicit material.

Certainly this legislation is a step in the right direction. However, it does not address the whole problem.

A few months ago my name, used as an Internet search vehicle, brought up a porn site. Children wanting to find out about their Congressman were exposed to graphic material.

We have done a good job of proving the link between smoking and cancer and heart disease, and we have aggressively attacked the tobacco problem with advertising, higher taxes and legislation. The connection between pornography and sexual abuse of women and children is equally clear. Yet we have done very little until now to address the problem.

Fifteen years ago, a Nebraska senator, Jim Exon, sponsored legislation to outlaw pornography on the Internet. He was laughed at at the time and the legislation went nowhere. Today, pornography is a $15 billion industry per year in the United States. It is the most lucrative endeavor on the Internet of all other projects and commercial attempts.

In attempting to protect free speech, we have badly trampled the rights of women and children to be protected from exploitation and physical harm. Dot Kids is an excellent start. I urge its support. I also hope that this is just a beginning in attacking the pornography industry.

Mr. UPTON. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. WAMP), someone who is just as equally concerned about kids and their lives, a cosponsor of the legislation.

Mr. WAMP. Mr. Speaker, it is an awesome responsibility to serve in this House, but I have no more awesome a responsibility in my life than to be a father of a 15-year-old son and a 13-

year-old daughter. The Internet is a powerful tool. It is also a very dangerous tool.

I was reminded of F.S. Oliver's poem about politics when he speaks of it being a noble profession. He says, and I paraphrase, there is no other profession where someone can do more good for their fellow man nor is there another profession where you can do such widespread harm, and the Internet has the same potential for good or bad.

Dot Kids Act gives young people a domain for use under tight guidelines with standards for content and registration; and as has been stated, it is like a children's section in a library. It is only appropriate. Recent Supreme Court rulings underscore the need to pursue multiple approaches to protecting our children from pornographers and demented individuals like pedophiles.

This is illegal pornography that we are trying to protect people from. There is a difference between what is legal and protected under the first amendment and what is illegal and not protected. It needs to be pursued. It is a cancer on our culture that requires aggressive treatment.

A journey of a 1,000 miles begins with a single step and this is just one step, but it is an important step; and we have got miles to go to continue coming to this floor and finding new, creative and innovative ways to protect our children from the dangers of the Internet.

I applaud the authors of this legislation and the committees for working together in a bipartisan way to do what is right for the children of America in a very dangerous world.

□ 1100

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Again I want to recommend to all the Members that they support this legislation. It is a real step forward in giving parents a tool they can use to protect their kids under 12 when they are on-line. The sooner we pass this is the sooner we can put this additional protection in place.

I want to thank again the majority for their cooperation in working with us in a way in which we can craft a bill that we can honestly recommend to every Member, Democrat, Republican, liberal or conservative, that will move forward to help the families in our country.

Mr. Speaker, I yield back the balance of my time.

Mr. UPTON. Mr. Speaker, I yield myself the balance of my time.

I would note that at our very first hearing as chairman of the Subcommittee on Telecommunications and the Internet, we talked about ''I Can'' and the various domain names that were out there. All of us jumped on the name of Dot Kids and how it could be protective of our kids. The stories we hear virtually every day, whether it be this morning, this young girl killed in Danbury, Connecticut, stories in our own districts across the country, we know that we need something that can protect our children from a nightmare that no family, no community ever wants to experience. I would reiterate that groups who spend literally every waking hour trying to protect families across this country, groups like the National Center for Missing and Exploited Children, Family Research Council, American Center for Law and Justice, the National Law Center for Children and Families, a Safer America For Everyone, all of them as well as every parent that serves in this House, every Member of Congress that has watched some of this junk that has come in unasked for, we know that Dot Kids can be a savior for all of us. We compliment those Members of the Senate that are wishing to pursue this legislation. We look forward to when this can be enacted into law by President Bush. We know that the administration supports this legislation.

Mr. WYNN. Mr. Speaker, I am pleased that the House of Representatives is considering H.R. 3833, the ''Dot Kids Implementation and Efficiency Act of 2002.'' I am a cosponsor of this legislation, which is important to parents and their young children exploring the Internet.

This legislation makes good sense. As a parent of a 7-year-old who surfs the net, I am concerned, as many parents across this Nation are, about the unseemlier side of the Internet, which our children can be exposed to, through a couple of mouse clicks, or the misspelling of a website name.

Where monitoring our children's use and installing filtering software helps, in the real world neither method is perfect. By creating the domain ''.kids.us'' and setting up guidelines on what is unacceptable in this domain, we go a long way to improving the safety of our children on the Internet. This bill creates a safe space on the Internet for our children, which is free from stalkers and free from the harmful imagery to which we do not want our children exposed.

I applaud the work of the sponsors of this bill for this valuable legislation that will help make the Internet safer for our kids.

Mr. PAUL. Mr. Speaker, as a parent, grandparent, and ob-gyn who has delivered over three thousand babies, I certainly share the desire to protect children from pornography and other inappropriate material available on the internet. However, as a United States Congressman, I cannot support measures which exceed the limitations on constitutional power contained in Article one, Section 8 of the Constitution. The Constitution does not provide Congress with the authority to spend taxpayer funds to create new internet domains.

Furthermore, Mr. Speaker, the federal government is singularly unqualified to act as the arbiter of what material is inappropriate for children. Instead, this is a decision that should be made by parents. Most of the problems pointed to by proponents of increased government control of the internet are the result of a lack of parental, not governmental, control of children's computer habits. Expanding the government's control over the Internet may actually encourage parents to disregard their responsibility to monitor their child's computer habits. After all, why should parents worry about what websites their children is viewing when the government has usurped this parental function?

The market is already creating solutions to many of these problems through the development of filtering software that responsible parents can use to protect their children from inappropriate materials. The best way to address this problem is by allowing this market process to develop, not by creating new government regulations.

In addition to creating new Internet domains, Congress is also expanding federal wiretapping powers. Mr. Speaker, my colleagues should also remember that the Constitution creates only three federal crimes, namely treason, piracy, and counterfeiting. Expansion of federal police power for crimes outside these well-defined areas thus violates the Constitution. In addition, expansion of federal wiretapping powers raises serious civil liberties concerns, as such powers easily can be abused by federal officials.

I therefore hope my colleagues will respect the constitutional limitations on federal power. Instead of usurping powers not granted the federal government, Congress should allow state and local law enforcement, schools, local communities, and most of all responsible parents to devise the best measures to protect children.

Ms. JACKSON-LEE of Texas. Mr. Speaker, as we enter the new millennium the Internet has become a playground for our children. In today's' playground there are many dangers, some examples are child pornography and sexual predators to name a few. In the past we have drafted legislation to insure the safety of our most precious resources, children. The Dot-Kids Implementation and Efficiency Act is this House's attempt to safeguard children.

The bill before the House today will go far to create a safer environment for children to explore the Internet. The legislation will create, within the United States a top-level ''dot-us'' country code domain and a ''dot-kids'' subdomain. The Web address of any site registered under the new subdomain would end with a ''.kid.us'' suffix. The dot-kids subdomain would ban sexually explicit material and other content deemed harmful for children under 13. The bill's definition of ''harmful'' includes any material that ''lacks serious, literally, artistic, political or scientific value'' for children.

The legislation would authorize the Commerce Department's National Telecommunications and Information Administration to remove from the dot-kids subdomain any content that does not meet the bill's ''child-friendly'' standards. That means that NeuStar, Inc.—the company that manages the dot-us domain under a contract with Department's National Telecommunications and Information Administration—would be required to monitor the content of all Web sites registered with a ''.kid.us'' address.

According to the Congressional Budget Office there are no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. The Act would impose no costs of state, local, or tribal governments. Based on information from the Department of Commerce, CBO estimates that launching a publicity and education campaign for the new domain would cost less than $500,000 per year, subject to the availability of appropriated funds.

Another provision in the bill would permit the Department's National Telecommunications and Information Administration to pull the plug on the subdomain if it fails to adequately protect children. This gives the Department of Commerce the needed enforcement mechanism to maintain a safe Internet environment for children. As the Chair of the Children's Caucus and a mother I rise to support the passage of H.R. 3833.

Mr. SCHIFF. Mr. Speaker, I rise today in support of H.R. 3833, the ''Dot Kids Implementation and Efficiency Act.'' I am proud to be a cosponsor of this important legislation, which was introduced by Representatives SHIMKUS and MARKEY, and commend the efforts of this House to protect our children on the Internet.

While the Internet has afforded our children amazing opportunities for learning and discovery, it has also posed serious dangers. The Internet makes it easy for children to gain access to inappropriate materials, turning simple searches into avenues for pornographic or violent web pages. As a parent of a young daughter, my hope is that she will be able to search the Internet freely and use it as a tool to explore books, stories, and educational games without worrying about what might turn up. This bill will make this possible.

H.R. 3833 creates a safehaven for children using the Internet by creating a separate domain name for content that is appropriate for kids under 13, while filtering any subject matter that may be harmful or threatening to this audience. By directing the National Telecommunications and Information Administration (NTIA) to establish and oversee the structure and rules for the new domain name, we are ensuring that the criteria for the ''dot.kids'' domain meet the necessary standards to protect children using the Internet. Further, this bill requires that the NTIA publicize the availability of the new domain and educate parents on how filter and block inappropriate material.

In today's web-based environment, it is vitally important that we work together with parents to ensure that our kids are safe in cyberspace. Congress is taking a remarkable step forward in this endeavor by passing this legislation. I urge my colleagues to support the ''Dot Kids Implementation and Efficiency Act'' on the House floor today.

Mr. UPTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and pass the bill, H.R. 3833, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. UPTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CHILD SEX CRIMES WIRETAPPING ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1877) to amend title 18, United States Code, to provide that certain sexual crimes against children are predicate crimes for the interception of communications, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1877

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Sex Crimes Wiretapping Act of 2002''.

SEC. 2. AUTHORIZATION OF INTERCEPTION OF COMMUNICATIONS IN THE INVESTIGATION OF SEXUAL CRIMES AGAINST CHILDREN.

(a) IN GENERAL.—Section 2516(1)(c) of title 18, United States Code, is amended—

(1) by striking ''2251 and 2252'' and inserting ''2251, 2251A, 2252, and 2252A''; and

(2) by inserting ''section 2423(b) (relating to travel with intent to engage in a sexual act with a juvenile),'' after ''motor vehicle parts),''.

(b) TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY.—Section 2516(1) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (q);

(2) by inserting after paragraph (q) the following:

''(r) a violation of section 2422 (relating to coercion and enticement) and section 2423(a) (relating to transportation of minors) of this title, if, in connection with that violation, the intended sexual activity would constitute a felony violation of chapter 109A or 110, including a felony violation of chapter 109A or 110 if the sexual activity occurred, or was intended to occur, within the special maritime and territorial jurisdiction of the United States, regardless of where it actually occurred or was intended to occur; or''; and

(3) by redesignating paragraph (r) as paragraph (s).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 1877, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1877, the Child Sex Crimes Wiretapping Act of 2002, will help protect our children from the growing threat of sexual predators by assisting law enforcement officers in thwarting those predators who are intent on sexually abusing children. To do so, the bill amends title 18, United States Code, section 2516 to authorize the interception of wire, oral, or electronic communications in the investigation of: (1) the selling and buying of a child for sexual exploitation under title 18, United States Code, section 2251A; (2) child pornography under title 18, United States Code, section 2252A; (3) the coercion and enticement to engage in prostitution or other illegal sexual activity under title 18, United States Code, section 2422; and (4) the transportation of a minor or traveling to meet a minor with intent to engage in a sexual act with the minor under title 18, United States Code, section 2423.

Technology has precipitated a significant increase in sexual exploitation crimes against children. In fact, child pornography was nearly extinct until the increased use of the Internet provided a new medium where the viewers, producers and traders are virtually anonymous. The Internet provided these depraved individuals with new access to their victims. In 2000, a U.S. Customs Service representative testified before the Subcommittee on Crime, Terrorism and Homeland Security of the Committee on Judiciary that the Customs Service had seen a dramatic rise in child exploitation investigations. During fiscal year 1999, these types of investigations increased 36 percent, and in 2000 the number rose an alarming 81 percent.

Additionally, the growth of international travel has helped sexual predators to exploit children throughout the world. According to a 2002 Congressional Research Service report, trafficking in people, especially women and children, for prostitution and forced labor is one of the fastest growing areas of international criminal activity. According to that report, under conservative estimates the scope of the problem involves more than 700,000 victims per year worldwide. We must do more to prevent children and women from being forced into prostitution, the sex tourism industry, and other sexually exploitative criminal markets.

The goal of H.R. 1877 is to provide law enforcement with the tools necessary to prevent the ultimate harm these depraved individuals plan for the innocent children they target. Wiretaps are key to stopping those crimes before the predators can physically harm children. I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 1877, the Child Sex Crimes Wiretapping Act. I believe the bill represents an unnecessary expansion of Federal wiretap authority, a procedure so pervasive of the rights of citizens in a free society that it can only be made available for use under circumstances specifically approved by Congress.

The current congressionally approved wiretap authority dates back to the 1968 crime bill. The primary intent of the law was to permit a limited use of electronic surveillance of organized crime syndicates, but even under those circumstances, as a tool of last resort.

Since that time the act has been amended over a dozen times to meet the demands of law enforcement officials for more power to eavesdrop on our citizens. We now have over 50 predicate crimes for which wiretap authority may be obtained. Regrettably, a number of these predicates involve relatively minor criminal activity. But now the argument goes that if we amended the wiretap authority to add one crime, we should certainly amend it to add another. As a result, the wiretaps are becoming a routine rather than an extraordinary procedure used as a last resort.

Eavesdropping on conversations from a household or a pay phone or a cell phone is a very intrusive law enforcement activity. Once a wiretap, or a bug, is in place, it captures all conversations, innocent as well as criminal. Estimates I have seen indicate that over 80 percent of the information obtained by wiretaps is innocent information, often involving family members and others who are not even targets of the investigation.

As Members will remember from the debate after September 11, some wiretaps are the so-called roving wiretaps where bugs can be placed on any phone the target uses, at his home, at his workplace, at the pay phone on the corner, at his neighbor's house or country club, and many innocent people will have their private, unrelated conversations listened in on by government employees.

At a hearing on this bill in the Subcommittee on Crime, Terrorism, and Homeland Security, an FBI witness testified about certain successful investigations in which wiretap authority would have been helpful. Given the intrusive nature and many innocent individuals and conversations it will necessarily ensnare, it is not enough justification for it to be merely helpful to law enforcement. It ought to be necessary.

Even without this expansion, the use of wiretap authority is rapidly growing. For example, in 1980, 81 Federal wiretaps were issued. In 1999, 601. That is 81 to 601 wiretaps were issued. Most of the crimes covered by this bill also involve activities that are State crimes. Indeed, over 98 percent of all criminal prosecutions are conducted at the State level. Each State can authorize wiretaps and most do. However, the total number of all State wiretaps amounts to almost the same number as the Federal wiretaps, 749 in the whole country in State wiretaps to 601 Federal wiretaps in 1999. The fact that a few States have chosen not to authorize wiretaps at all and the limited number of State wiretaps that are authorized as compared to the number of Federal wiretaps attests to the level of concern citizens have with law enforcement officials having power over their private conversations.

Mr. Speaker, as we address this bill, we see that much of the activity for which the proponents of the legislation are seeking to justify this wiretap authority is already covered by Federal wiretap authority. Moreover, most, if not all, of the activity under the sections added by H.R. 1877 for wiretap authority are covered by the general wiretap authority in the Federal law for crimes against child exploitation. And all of it is already covered by e-mail, fax and other electronic eavesdrop authority and investigatory techniques. And so, Mr. Speaker, to understand the impact of the legislation, we have to focus on those crimes not currently covered under present law which will be covered by additions under this bill.

One provision allows wiretap when probable cause exists that a person is producing sexually explicit computer-generated images of children. This very month, the Supreme Court said that computer-generated images of children that are not obscene and do not involve real children are not criminal. This bill would allow wiretaps for those situations. Wiretaps should be used only in extraordinary situations. We certainly should not be adding wiretap authority to investigate something that is not even a crime.

I attempted improvements to the bill in committee by offering amendments to limit the application to its stated objective of protecting children. One amendment which was not adopted would have limited the extension of wiretap authority to cases involving actual as opposed to virtual children in keeping with the recent Supreme Court decision. That was not adopted. Another limited the application of the act to cases involving children as opposed to adults. There is absolutely no justification in a bill purportedly designed to protect children to authorize wiretap authority for the FBI to listen in on garden-variety adult prostitution cases. Prostitution is actually legal in some places. Yet under Federal law it is a felony punishable by up to 10 years in prison to persuade, induce or entice or attempt to, or to conspire to have someone cross a State line to engage in this legal activity. If this bill becomes law, the FBI will be able to wiretap conversations to determine if there is such persuasion, enticement or inducement or attempt or conspiracy.

There are other situations involving consensual activities involving high school students that we see routinely on prom night which would provide a Federal wiretap under this bill.

With such shortcomings, Mr. Speaker, this bill should not be on the suspension calendar but should be fully debated and open to amendment. I urge my colleagues to defeat this motion to suspend the rules so that the bill may be considered under regular rules of order subject to full debate and amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), the author of the bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in support of this important legislation. I thank the chairman for bringing it forward.

Passage of this bill is not an effort to just be helpful to the FBI. It is a necessary tool that the FBI must have if they are to track down these predators and to reduce the threat to our children. The threat to our children is real. The need to address it is urgent.

□ 1115

In talking with Ernie Allen, president and CEO of the National Center for Missing and Exploited Children, he tells a compelling story. In visiting a classroom, he and a reporter asked the children, How many of you have been approached sexually on the Internet? Every single hand went up. And then the kids were asked, And how many of you told your parents? Not a single hand went up.

The children are terrified. They are afraid to tell their parents because this threat is so both nebulous and mysterious. They are frightened by it but think they are protected by the computer and don't need to tell their parents. In fact these criminals are very clever, weedle information from children, earn their trust, and then they are vulnerable kids also are afraid that their parents will deny them access to the computer if they acquaint their parents with the dangers that lurk there.

Our children need our protection. These conversations on the Internet that lure and entice them lead them to telephone conversations that set up meetings. Just yesterday, a 13-year-old girl in my home State, a beautiful young woman, an honor student, a cheerleader, was found murdered. She met her murderer online. He lured her from her home, sexually abused her and killed her.

This is real. It is present, and all of our children are experiencing it. In 1999, and this is old data now, one in five children reported having been sexually solicited on the Internet. That is 5 million children. Today we believe this is the most under-reported crime in the Nation.

It is just simply a terrible situation, it is urgent, and if our FBI agents are not able to track the conversation they spot beginning on the Internet when it transfers to the telephone, which it always does before meeting, then they are weakened in their ability to prevent the sexual molestation and possible murder of our children.

They just want the same tools that the predators have. That is all. They want to be able to interrupt those conversations before the meeting takes place or be there when the meeting takes place, and they want the evidence off the tape recording of the wiretap to use in court because it is tangible, and it will protect many of our children from having to testify.

Mr. Speaker, this is a long-overdue bill. I appreciate the concern of those

who are worried about extending wiretap authority; but this is a concrete, demonstrated need that the courts have to approve. I urge support of this legislation.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, cases of kidnapping and murder can already be predicates for a wiretap.

Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I rise today in strong support of this legislation that will help to protect our Nation's children. We need to give law enforcement, the FBI, the tools that they need to crack down on child sex crimes.

This particular wiretapping act will add four additional crimes for which law enforcement officials may seek wiretapping authority. These crimes include selling or buying a child for sexual exploitation, child pornography, coercing or enticing a child for prostitution, and transporting minors to engage in prostitution or traveling with the intent to engage in a sexual act with a juvenile.

Recent news reports, my colleague cited one, but you read about them every day where young children are enticed or the Internet is used in some way to traffic women and children; and it is something we need to crack down on. There are some estimates that the number of victims that are in trafficking now worldwide is over 700,000.

This exploitation of young children into sex trafficking is a tragic human rights offense. Sex tour operators such as Big Apple Oriental Tours in New York City provide a full-service travel package over the Internet, including air fare, hotel and entertainment for their customers. We must act to stop this growing industry.

Under this legislation, law enforcement will be better able to protect innocent children from the predators who would exploit them and destroy their childhood. I am also pleased to note that this legislation does not weaken the strict limitations on obtaining wiretaps; rather, the bill expands the areas for which the wiretap can be acquired, while requiring the law enforcement officials do not intercept noncriminal conversations. Our interest is in prosecuting sexual predators, not innocent citizens.

The Internet has revolutionized the ways in which people communicate, not only with their friends and family but with people and businesses around the world. Unfortunately, with great advances in technology come new dangers and new means for criminals to target their victims.

The statistics are startling. In 2001, one in five children was solicited over the Internet for sexual purposes, and we must expand the options available to law enforcement to find these sexual predators.

I must tell you that I feel very strongly about this bill. I am proud to be the lead Democrat on it. I have a 14-year-old daughter; and many times on the Internet she is approached, as is practically every young person on the Internet. It has met with tragedy in many cases.

We must act. This bill does protect the rights of people. We are only going after sexual predators. I urge a ''yes'' vote.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SMITH), the chairman of the Subcommittee on Crime.

Mr. SMITH of Texas. Mr. Speaker, first of all, I would like to thank the chairman of the Committee on the Judiciary for yielding me time.

Mr. Speaker, it is very appropriate that the House is considering H.R. 1877, the Child Sex Crimes Wiretapping Act of 2002, before May 25, the National Missing Children's Day. This bill will provide law enforcement officials with the tools they need to prevent or punish sexual exploitation of children.

Federal law authorizes the use of wiretaps to stop some sex crimes against children, but not others. This is clearly a gap in our current law. The interception of oral communications through wiretaps significantly enhances investigations and can prevent children from being harmed.

This bill authorizes wiretaps to investigate the selling and buying of children for sexual exploitation, child pornography, coercing and enticing children into prostitution, and the transportation of minors to engage in sexual activity. These are serious crimes that require a serious response.

With 24 million children surfing the Internet, child molesters have easy access to a large number of potential victims. The American Medical Association released a study last summer that surveyed children who regularly used the Internet. The study found nearly one in five children surveyed received an unwanted sexual solicitation online just in the last year. Technology is making it more and more difficult for law enforcement officials to protect our children from pedophiles. This is why we need to authorize the use of wiretaps by law enforcement officials to fight this growing threat against our children.

Wiretaps will significantly enhance law enforcement capabilities to prevent the sexual exploitation of children. This is the goal of H.R. 1877.

Mr. Speaker, I support the bill, and urge my colleagues to do the same.

Mr. Speaker, let me reassure the few of my colleagues who might have concerns about this bill.

This bill does create new wiretap predicates. But those crimes will be treated like any other wiretap predicate. This in no way changes the strict limitations on how and when wiretaps may be used.

Congress enacted Title III of the Omnibus Crime Control and Safe Streets Act of 1968 that outlines what is and is not permissible with regard to wiretapping and electronic eavesdropping. Title III restrictions go beyond Fourth Amendment constitutional protections and include a statutory suppression rule to exclude evidence that was collected in violation of Title III. Except under limited circumstances, it is unlawful to intercept oral, wire and electronic communications. Accordingly under the Act, Federal and state law enforcement may use wiretaps and electronic surveillance under strict limitations. Congress created these procedures to allow limited law enforcement access to private communications and communication records for investigations while protecting Fourth Amendment rights. In addition to these restrictions, Congress has only provided authority to use a wiretap in investigations of specifically enumerated crimes, commonly called ''wiretap predicates.''

H.R. 1877 adds new predicates but does not affect the procedures on wiretap use.

Title 18 U.S.C. § 2516 requires that the Department of Justice authorize all applications for Federal wiretaps and the principal prosecuting attorney of any state or any political subdivision must apply for wiretaps by state law enforcement officials.

Title 18 U.S.C. § 2518 also sets strict procedures for the use of a wiretap. Section 2518(1) requires the application to be made under written oath or affirmation to a judge of competent jurisdiction. Section 2518(1)(b) requires that the application set forth ''a full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued. . . .'' These facts should include, among other things, the details ''as to the particular offense that has been, is being, or is about to be committed'' and ''the identity of the person, if known, committing the offense and whose communications are to be intercepted.''

Section 2518(3) also includes requirements that the Judge believe (1) ''there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 2516 of [title 18];'' (2) there is probable cause for belief that particular communications concerning that offense will be obtained through such interception; and (3) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous.

Additionally, law enforcement is required ''to minimize the interception of communications not otherwise subject to interception [that is non-criminal conversations] under this chapter, and must terminate upon attainment of the authorized objective.'' The Department of Justice's U.S. Attorney's Manual—Title 9 of the Criminal Resource Manual provides the minimization requirements to obtain a court order.

The affidavit ''must contain a statement affirming that monitoring agents will minimize all non-pertinent interceptions in accordance with Chapter 119 of Title 18, United States Code, as well as additional standard minimization language and other language addressing any specific minimization problems (e.g., steps to be taken to avoid the interception of privileged communications, such as attorney-client communications) in the instant case. (18 U.S.C. § 2518(5) permits non-officer government personnel or individuals acting under contract with the government to monitor conversations pursuant to the interception order. These individuals must be acting under the supervision of an investigative or law enforcement officer

when monitoring communications, and the affidavit should note the fact that these individuals will be used as monitors pursuant to 18 U.S.C. § 2518(5).)''

Mr. SCOTT. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks, and include extraneous material.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member for both his leadership and his kindness in yielding me time. I also thank the sponsors of this legislation and the chairman and ranking member of the committee, both for the timeliness of this legislation moving, the chairman of the subcommittee; and I rise to support this legislation on one large key word, and that word is ''deterrence.''

I hope as we move the legislation through this body that the concerns of the ranking member are addressed and considered. But I believe that the deterrent factor is a must. It is key. It is an absolute.

What struck me most, Mr. Speaker, was the testimony that I heard in our hearings that child predators often gain the confidence of children on the Internet and then set up meetings by telephone. In a recent report it has been noted that 40 hours of a child's time is taken up with electronic kinds of equipment; only 17 hours are taken up with the interaction with the child's parent; and maybe 30 hours or more in school.

Clearly we have a predator's paradise, with the Internet being the enticing instrument and then the telephone nailing it down. What a tragedy.

Might I add to my colleague from Connecticut's outrage, in reading a headline, ''Man confesses to killing girl he met on the Internet.'' This did happen in Danbury, Connecticut. Investigators found the body of a missing 13-year-old girl Monday after she met a man over the Internet and told them where to look. The U.S. Attorney identified the man as a 25-year-old individual who had confessed to killing the girl, Christina Long. She was last seen Friday at a Danbury shopping center.

Relationships developed over the Internet, and then, as we might expect, and might speculate, might I say, nailed down the coffin nail by a phone call as to where to meet me. This beautiful young girl is now dead. Thousands upon thousands have access to the Internet, our very innocent children; and thousands upon thousands of predators, vicious and violent as they are, are utilizing the Internet and then the telephone.

I would offer to say that this legislation gives law enforcement an additional tool, if you will, along with other law enforcement agencies, to monitor these telephone calls, overcoming a legal barrier now facing crime fighters in tapping these phone calls, geared specifically to sexual activities with respect to a minor.

I would hope as this legislation makes it way, we will consider the issue that deals with extraneous conversation and individuals not engaged in these terrible, heinous acts. We are a Nation of laws, Mr. Speaker. It is important to recognize the rights and privileges, the civil liberties and due process of others not engaged in criminal activity; but this is a vital tool that will assist in fighting these heinous and horrific sexual crimes.

H.R. 1877 would add certain sexual crimes against children to the list of offenses for which wiretaps and other interceptions of communications can be authorized. Implementing the bill could result in more successful investigations and prosecutions in cases involving such crimes.

It is not always easy, Mr. Speaker, to have someone stand up and say ''I did it.'' Our children are under attack. They are under siege. These sexual crimes are prolific, and they are all over the Nation. What a tragedy, Mr. Speaker, to have this young girl as an example of the violence that happens over the Internet. What a tragedy to recognize that our children are before these electronic media entities, meaning whether it is the CDs or whether or not it is the boom box or whether or not it is the Internet, for more than 40 hours of their life a week without an adult attending to them or counseling with them or participating with them on the Internet. That means there is ample opportunity to entice our young girls and young boys.

Let me conclude by saying in my own district just a few weeks ago a person from Detroit, Michigan, enticed a 12-year-old to leave his home in Texas; and by the time they were found through the Internet, they were halfway back to Michigan, enticing the 12-year-old for sexual activities, terrible sexual activities as relates to a minor.

This legislation will begin the deterrence, and I hope as it makes its way through this House and makes its way through the Senate, we will be concerned as well about the issues of due process and privacy.

Mr. Speaker, as a member of the House Judiciary Subcommittee on Crime, I heard testimony during the hearings that child predators often gain confidence of children on the Internet and then set up meetings by telephone. The new authority in the legislation would give power to the FBI or other law enforcement agencies to monitor those telephone calls, overcoming a legal barrier now facing crime fighters in tapping those phone calls. This bill would have more than a deterrent affect it would also contain enforcement muscle.

Because those prosecuted and convicted under H.R. 1877 could be subject to criminal fines, the federal government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and later spent. CBO expects that any additional receipts and direct spending would be negligible because of the small number of cases involved. CBO estimates that implementing H.R. 1877 would not result in any significant cost to the federal government. Enacting H.R. 1877 could affect direct spending and receipts; therefore, pay-as-you-go procedures would apply to the bill, but CBO estimates that any such effects would not be significant. H.R. 1877 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

H.R. 1877 would add certain sexual crimes against children to the list of offenses for which wiretaps and other interceptions of communications can be authorized. Implementing the bill could result in more successful investigations and prosecutions in cases involving such crimes. CBO expects that any increase in costs for law enforcement, court proceedings, or prison operations would not be significant because of the small number of cases likely to be affected. Any such additional costs would be subject to the availability of appropriated funds. The bill would add four crimes to a list of those that qualify for wiretaps or other electronic monitoring—child pornography, enticing children to engage in illicit sex, transporting children to engage in sex and selling or purchasing children for prostitution or other sexual exploitation.

The bill amends the Federal criminal code to authorize the interception of wire, oral, or electronic communications in the investigation of child pornography, felony coercion and enticement to engage in prostitution or other illegal sexual activity. As the Chair of the Children's Caucus and a mother I rise to support the passage of H.R. 1877.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I believe it was in the first week in which I operated as an assistant district attorney in Dauphin County in Pennsylvania when I had the duty of supervising an investigation and a court setting for a case evolving from wiretapping; and it happened to be a sex case, although not one involving children. That is when I learned for the first time in on-the-job training that no wiretap will be used in court or is usable in court if it is not predicated by a court order. So the judge has the ability to look over and has oversight on every single phase of the reaching out to the telephone wires by a wiretap.

This I think is the answer to the concern of the gentleman from Virginia when he relates that it should be more than helpful to the law enforcement agencies, but absolutely necessary in his description of when a wiretap should be used.

□ 1130

I say to him that it is the court which will decide whether it is merely helpful or necessary. It is when the court determines the necessity of the wiretap that it finally signs into the ability of the law enforcement to use that wiretap.

So with all of the advances made over the years from that first week of my incumbency as an assistant district

attorney, with the cell phones and now the vast Internet, what is attempted by this bill is to keep up with the pace of the technology. But then it still falls back on the ancient, now ancient prospect of a court-reviewed request for a wiretap. So all of the safeguards, the greatest one of all, meaning the review by the court, is still in place; and yet we are now in a position if we pass this bill to expand the authority of the law enforcement community.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I rise to commend my colleague, the gentleman from Virginia (Mr. SCOTT), for taking on a very difficult issue. It is very easy for all of us to stand here and talk about how we will do anything to protect our children. We are parents and we are grandparents; and of course we are concerned about predators and placing our children at risk, and we know that the Internet opens up opportunities that we never dreamed of.

However, I am taking the floor today to say to my colleague that I appreciate the very difficult work of trying to focus us on the fact that there is a Constitution and that there are hardwon gains in civil rights and civil liberties that we must always be reminded of. This is very tough work, and we do not have all of the answers. But we do have some Members of this Congress who are courageous enough to talk about what it means to live in a free society and what it means to live in a police state where one is being wiretapped, where one is under surveillance, where one is being wiretapped and one is not even aware of it because we keep expanding and expanding and expanding the ability to be wiretapped and to have our citizens under surveillance.

Let me remind all of my colleagues, even though this bill is going to pass, and it is going to pass almost with every Member of Congress supporting it, because we wish to show that we want to protect our children, let us not forget that when those people came to the shores from Britain, they came because they wanted to get out from under tyranny. They wanted to get away from the fact that they could not speak and they could not be free from being under police watch all of the time.

So I thank the gentleman from Virginia (Mr. SCOTT) for his attempts to at least keep us focused.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Much of what is in the bill is already covered by present law. Obviously, conspiracy, kidnapping, and murder is already covered. There are some provisions that are helpful; there are also some that I think are very loosely drawn. For example, legal adult activity is covered as a predicate for wiretap. If one is calling into an area where prostitution is legal, that may be a crime, a Federal crime here in Washington, D.C., but not in Nevada. There is activity covered by this bill which was declared legal by the Supreme Court just this month as a predicate for a Federal wiretap. Consensual activities by young high school students is a predicate to a Federal wiretap.

This bill is not narrowly drawn; and, therefore, we should not suspend the rules and pass the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, we have heard an impassioned plea about civil rights. This is about civil rights for children. It is about protecting minors who cannot protect themselves from the sexual exploitation over the Internet.

There are some in this House that do not believe that wiretaps are proper at any time. I respect that position, even though I disagree with it. But I think we ought to make it clear in the legislative history of this bill that under the law, law enforcement is authorized to use a wiretap to intercept wire or electronic communications that may provide evidence of a crime under 18 U.S.C. section 2516, and that no wiretap, regardless of the crime that is being investigated, can legally be done in this country without a court order.

So that provides the protection against unmitigated, unrestrained surveillance by wiretaps of citizens by law enforcement.

This is a good bill. It is a bill that has bipartisan support. It is a bill that plugs a loophole in our present laws, and it ought to become the law of the United States of America. The House can do so by suspending the rules in just a few minutes, and I urge my colleagues to support this motion.

Ms. KILPATRICK. Mr. Speaker, today, I voted against H.R. 1877, the Child Sex Wiretapping Act. Let me be clear in that I do support the goals of the bill which seek to provide law enforcement with the tools necessary to apprehend those who sexually exploit children. It is clear that persons who use the Internet or any other means for the sexual exploitation of children deserve to have the full force of the law brought against their activity. My concern, however, is that the measure before us sweeps too broadly and will unduly burden the legitimate rights of Americans.

There are provisions of the bill that allow wiretapping where consenting adults engage in activity that, although questionable, may in fact be legal. The protection of children is of paramount importance, but in protecting children, we should not impugn the potentially legitimate rights of many of our Nation's citizens.

We have already granted the Justice Department, the FBI and other police authorities unprecedented authority to wiretap in our efforts to combat the war on terrorism. I argue that wiretap authority already exists for child sexual exploitation. These same authorities also possess the power to intercept e-mail and other electronic communications. Furthermore, States already have the authority to wiretap for the crimes specified in the bill.

We are living in a trying time and we should take every precaution before granting any additional power to police authorities. I fear that Congress will give away many of the freedoms we cherish. As such, Mr. Speaker, I voted against this measure.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1877, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

EMBASSY EMPLOYEE COMPENSATION ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3375) to provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001.

The Clerk read as follows:

H.R. 3375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Embassy Employee Compensation Act''.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) CLAIMANT.—The term ''claimant'' means an individual filing a claim for compensation under section 5(a)(1).

(2) COLLATERAL SOURCE.—The term ''collateral source'' means all collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the bombings of United States embassies in East Africa on August 7, 1998.

(3) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(4) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' means an individual determined to be eligible for compensation under section 5(c).

(5) NONECONOMIC LOSSES.—The term ''noneconomic losses'' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service),

hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(6) SPECIAL MASTER.—The term ''Special Master'' means the Special Master appointed under section 404(a) of the September 11th Victim Compensation Fund of 2001 (title IV of the Air Transportation Safety and System Stabilization Act (Public Law 107–42; 115 Stat. ____)).

SEC. 3. PURPOSE.

It is the purpose of this Act to provide compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the bombings of United States embassies in East Africa on August 7, 1998.

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—The Attorney General, acting through the Special Master, shall—

(1) administer the compensation program established under this Act;

(2) promulgate all procedural and substantive rules for the administration of this Act; and

(3) employ and supervise hearing officers and other administrative personnel to perform the duties of the Special Master under this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Master in carrying out this Act.

SEC. 5. DETERMINATION OF ELIGIBILITY FOR COMPENSATION.

(a) FILING OF CLAIM.—

(1) IN GENERAL.—A claimant may file a claim for compensation under this Act with the Special Master. The claim shall be on the form developed under paragraph (2) and shall state the factual basis for eligibility for compensation and the amount of compensation sought.

(2) CLAIM FORM.—

(A) IN GENERAL.—The Special Master shall develop a claim form that claimants shall use when submitting claims under paragraph (1). The Special Master shall ensure that such form can be filed electronically, if determined to be practicable.

(B) CONTENTS.—The form developed under subparagraph (A) shall request—

(i) information from the claimant concerning the physical harm that the claimant suffered, or in the case of a claim filed on behalf of a decedent information confirming the decedent's death, as a result of the bombings of United States embassies in East Africa on August 7, 1998;

(ii) information from the claimant concerning any possible economic and noneconomic losses that the claimant suffered as a result of such bombings; and

(iii) information regarding collateral sources of compensation the claimant has received or is entitled to receive as a result of such bombings.

(3) LIMITATION.—No claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 7.

(b) REVIEW AND DETERMINATION.—

(1) REVIEW.—The Special Master shall review a claim submitted under subsection (a) and determine—

(A) whether the claimant is an eligible individual under subsection (c);

(B) with respect to a claimant determined to be an eligible individual—

(i) the extent of the harm to the claimant, including any economic and noneconomic losses; and

(ii) the amount of compensation to which the claimant is entitled based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

(2) NEGLIGENCE.—With respect to a claimant, the Special Master shall not consider negligence or any other theory of liability.

(3) DETERMINATION.—Not later than 120 days after that date on which a claim is filed under subsection (a), the Special Master shall complete a review, make a determination, and provide written notice to the claimant, with respect to the matters that were the subject of the claim under review. Such a determination shall be final and not subject to judicial review.

(4) RIGHTS OF CLAIMANT.—A claimant in a review under paragraph (1) shall have—

(A) the right to be represented by an attorney;

(B) the right to present evidence, including the presentation of witnesses and documents; and

(C) any other due process rights determined appropriate by the Special Master.

(5) NO PUNITIVE DAMAGES.—The Special Master may not include amounts for punitive damages in any compensation paid under a claim under this Act.

(6) COLLATERAL COMPENSATION.—The Special Master shall reduce the amount of compensation determined under paragraph (1)(B)(ii) by the amount of the collateral source compensation the claimant has received or is entitled to receive as a result of the bombings of United States embassies in East Africa on August 7, 1998.

(c) ELIGIBILITY.—

(1) IN GENERAL.—A claimant shall be determined to be an eligible individual for purposes of this subsection if the Special Master determines that such claimant—

(A) is an individual described in paragraph (2); and

(B) meets the requirements of paragraph (3).

(2) INDIVIDUALS.—A claimant is an individual described in this paragraph if the claimant is—

(A) a citizen of the United States who—

(i) was present at the United States Embassy in Nairobi, Kenya, or the United States Embassy in Dar es Salaam, Tanzania, at the time, or in the immediate aftermath, of the bombings of United States embassies in East Africa on August 7, 1998; and

(ii) suffered physical harm or death as a result of such a bombing; or

(B) in the case of a decedent who is an individual described in subparagraph (A), the personal representative of the decedent who files a claim on behalf of the decedent.

(3) REQUIREMENTS.—

(A) SINGLE CLAIM.—Not more than one claim may be submitted under this Act by an individual or on behalf of a deceased individual.

(B) LIMITATION ON CIVIL ACTION.—

(i) IN GENERAL.—Upon the submission of a claim under this Act, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the bombings of United States embassies in East Africa on August 7, 1998. The preceding sentence does not apply to a civil action to recover collateral source obligations.

(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this Act unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 7.

SEC. 6. PAYMENTS TO ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Not later than 20 days after the date on which a determination is made by the Special Master regarding the amount of compensation due a claimant under this Act, the Special Master shall authorize payment to such claimant of the amount determined with respect to the claimant.

(b) PAYMENT AUTHORITY.—This Act constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of amounts for compensation under this Act.

(c) ADDITIONAL FUNDING.—

(1) IN GENERAL.—The Attorney General is authorized to accept such amounts as may be contributed by individuals, business concerns, or other entities to carry out this Act, under such terms and conditions as the Attorney General may impose.

(2) USE OF SEPARATE ACCOUNT.—In making payments under this section, amounts contained in any account containing funds provided under paragraph (1) shall be used prior to using appropriated amounts.

SEC. 7. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out this Act, including regulations with respect to—

(1) forms to be used in submitting claims under this Act;

(2) the information to be included in such forms;

(3) procedures for hearing and the presentation of evidence;

(4) procedures to assist an individual in filing and pursuing claims under this Act; and

(5) other matters determined appropriate by the Attorney General.

SEC. 8. RIGHT OF SUBROGATION.

The United States shall have the right of subrogation with respect to any claim paid by the United States under this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from California (Ms. WATERS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3375, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3375 would allow U.S. citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, or their surviving family, to receive the same compensation as the victims of the September 11 terrorist attacks.

The September 11 Victim Compensation Fund Act of 2001 created a compensation program administered by the Attorney General, through a Special Master, for people killed or injured as a result of the September 11 terrorist attacks.

On August 7, 1998, agents of Osama bin Laden orchestrated near simultaneous vehicular bombings of the United States embassies in Nairobi, Kenya,

and Dar Es Salaam Tanzania. Twelve American Government employees and family members were killed and several others were injured as a result of these bombings.

Mr. Speaker, H.R. 3375, the Embassy Employee Compensation Act, directs the Attorney General to provide compensation for those American government employees and family members through the Special Master appointed to administer the September 11 Victim Compensation Fund of 2001. The bill would authorize payments under the same standards for payments that are applied to people receiving payment under the September 11 fund. In the case of a deceased individual, the bill would allow relatives of that individual to be compensated under the same standards as well.

Mr. Speaker, H.R. 3375 is a matter of fairness and equity. It allows victims of the bombings of the U.S. embassies access to the same compensation system available to those killed or injured during the September 11 attacks in the United States by agents of Osama bin Laden.

Mr. Speaker, I reserve the balance of my time.

Ms. WATERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank both the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Missouri (Mr. BLUNT) for helping to rescue this legislation. There have been several unsuccessful attempts over the past 4 years to recognize and compensate the families of those who lost their loved ones.

Mr. Speaker, I rise as an original cosponsor in support of H.R. 3375, because this bill provides much-needed, but long-delayed, compensation for the victims of U.S. embassy bombings several years ago.

In 1998, two U.S. embassies were bombed in Africa, one in Kenya and one in Tanzania. Agents of Osama bin Laden orchestrated these bombings, costing the lives of over 220 persons, including 12 American citizens. These attacks represent attacks against America and need our attention.

As we all know, embassy personnel are often targeted because they represent the United States in a foreign country. The families of those victims have never been compensated. While foreign service officers assume a reasonable level of risk in accepting a foreign assignment, they should not have to bear the burden of murder at the hands of terrorists without compensation for their surviving families.

The fact that those families have, to date, received no compensation is even more alarming in light of the fact that the families of those killed in the accidental bombing of the Chinese embassy in Serbia in 1999 received $1.5 million each. I agree with the United States decision to provide compensation for these families, but we must not neglect the families of Americans lost in Kenya and Tanzania.

Regrettably, in East Africa the State Department failed to comply with its own regulations to warn embassy personnel that intelligence information confirmed the existence of active terrorist activity in that area. The State Department also disregarded the repeated requests of the Kenya ambassador for greater security to protect the embassy and its personnel. It is a travesty that these disregards of policy may have contributed to a loss of American life. It is a shame that we have not acted sooner to compensate these families.

This bill will provide that the embassy bombing victims will receive compensation on the same basis as compensation is provided to victims of the September 11 terrorist attacks. They would go through the process administered by the Special Master that is used by all victims of the September 11 terrorist attacks.

Any person filing a claim under H.R. 3375 would waive all rights to civil suit in Federal or State court, except as to suits to collect collateral source obligations such as life insurance, pension funds, and death benefits. Any award received under the fund will be reduced by any other amount of compensation of the claim it has received or is entitled to receive as a result of the bombings.

Mr. Speaker, I urge my colleagues to support this bill. It provides a logical approach to this long-awaited compensation.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. BLUNT), the distinguished deputy majority whip.

Mr. BLUNT. Mr. Speaker, I thank the chairman for yielding me this time and for bringing this bill to the floor today. I also want to thank the gentlewoman from California (Ms. WATERS), my good friend, for her comments about this bill and her support of this bill, and the gentleman from Maryland (Mr. WYNN), who, along with me, initiated this legislation. We were joined by over 40 of our colleagues as we look at one of the real forgotten results of the terrorism of Osama bin Laden.

This is the same group that attacked our citizens on September 11. It is led by the same person. They took credit for these embassy bombings. These embassies, as all embassies anywhere in the world, are considered U.S. territory, American soil. So Americans were killed on American soil. Al Qaeda and Osama bin Laden immediately came to the forefront and took credit for what happened in Kenya and what happened in Tanzania, what happened that ripped the lives of the families of these 12 individuals apart, just as what happened on September 11 ripped the lives of families apart in ways that can never be fully compensated.

□ 1145

What we do in this legislation is respond in a way that is fair, respond in a way that is equitable, respond in a way that I believe to be appropriate, as August 7, 1998, is exactly analogous to September 11, 2001. It did not affect Americans in the same way at the moment because it was not next door, it was halfway around the world; but it was halfway around the world on American soil. It was halfway around the world with cowardly terrorists who immediately stepped forward to say, We did this and we are proud of it. It was halfway around the world because our country and our citizens were targets.

From my district, Army Staff Sergeant Kenneth Hobson, the son of Kenneth and Bonnie Sue Hobson of Lamar, Missouri, was a victim of this attack.

One of my daughter Amy's law school classmates, Edith Bartley, lost her father and her brother in these bombings; and since a time shortly after the bombings many of us have talked with the victims' families about what we could do and what we could encourage the State Department to do.

Prior to September of last year, there was no formula in place for this exact same kind of incident. This is only fairness to include these 11 families, 12 victims from 11 families, and others who were injured in what happened, other Americans who were injured in what happened at these two embassies, to include them under the same compensation review that we created last September.

There is no reason for these families to have to go to court unless they choose to go to court. That is available to all the families from September 11, and it is available to these families, as well; but this gives families an opportunity to have some appropriate compensation without having to once again challenge their lives by needlessly going to court, having to prove that there is some damage by some institution when we know who the damage is from. The damage was from al Qaeda, and the damage was from Osama bin Laden.

This treats these 11 families and others of injured Americans exactly as we are treating the families that were affected by September 11. We did not do it as quickly, but hopefully we will do it as well.

Families who have a case in court today can say, if they choose to, I want to walk away from this case in court. I want to go to the Special Master. All we want is fairness and equity. We want to get on with our lives, but we also want to do that with a government that appreciates the lives of Americans representing their country overseas who gave their lives in a cowardly attack on Americans at work representing us on August 7, 1998.

I am, again, grateful to all those who have worked to get this to the floor today. I urge my colleagues to vote for it. I appreciate all my colleagues who have joined with me as cosponsors to try to bring equity and fairness to these families, and that will be the result of this debate today, I hope.

Ms. WATERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for both her leadership and her persistence in the effort, along with the sponsors of the bill, the chairman and ranking member on this legislation.

Mr. Speaker, this legislation came through the Subcommittee on Immigration and Claims of the Committee on the Judiciary, on which I serve as ranking member; and I realize the journey it has had to travel. I want to applaud the persistence, as I said earlier, of the gentlewoman from California (Ms. WATERS), but particularly I want to emphasize that this is a question of equity and fairness. I saw the tears and the pain of the families who came before us, who had lost their loved ones in the tragic event, I guess sort of the indicator of what might come, the tragedy of the bombings of the embassies in Kenya and Tanzania.

We were somewhat unfamiliar with this kind of assault on American lives, and I believe this legislation, H.R. 3375, says two things: first, that there is no unequal American under the sun; and as our hearts go out to the victims of September 11, we could do no less in providing a master procedure for these families, some of whom or one particular young lady who lost a father and a brother. I will never forget Edith Bartley, a constant fighter helping to bring justice to these families. She constantly came to present her case, not only for her family, but on behalf of the families of all of the victims.

We know that the notice, if you will, the information did not descend to the ambassadors of those particular embassies to realize that there was some indication of an attack. We now know that Osama bin Laden has his hand everywhere. Whether he lives or not, he lives to do terrible, horrific, and deadly crimes. Because he lives to do that, we must stand with those who have suffered.

So I ask my colleagues to support this out of fairness. I do want to note that the monies given to those who lost their lives in the accidental bombing of the Chinese embassy got $1.5 million. We can do no less for these particular Americans.

I want to again applaud those whose initiative kept this legislation in the forefront of the legislative agenda. I ask my colleagues to unanimously support H.R. 3375.

Mr. Speaker, I rise to support H.R. 3375. This legislation would make whole the victims of the bombings at the U.S. Embassy in Nairobi, Kenya, and of the U.S. Embassy in Dar es Salaam, Tanzania, on August 7, 1998. The legislation is a form of equity for more than 260 persons killed in these bombings. The measure would apply the same system to pay for the Africa bombing victims as the methods used to compensate families of victims of the September 11 suicide attacks.

Since the September 11 attacks, victims of the Africa bombing victims have noted the discrepancies between their compensation and that given to families of September 11 victims and themselves. Under the legislation, the Africa bombing victims and families—who have not received Federal compensation to date—could receive money determined by a special master who would figure the amounts. In turn, families would forego their rights to sue for punitive damages.

Let us pass this bill and provide the aid that we should have done earlier.

Ms. WATERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 3375, the Embassy Employee Compensation Act. The acts of terrorism against United States citizens and other innocent persons unfortunately did not begin on September 11. In 1998, the U.S. embassies in Kenya and Tanzania were bombed and destroyed by terrorists associated with al Qaeda and Osama bin Laden. U.S. citizens and many Kenyan and Tanzanian residents were killed in these bombings. This bill would allow those victims to be treated the same way as other victims of the same terrorist organization on September 11.

This bill goes a long way to try to close a sad incident in our history; but this bill would not have become a reality without the work of Edith Bartley, and I would like to take a moment to recognize her efforts.

In 1998, Ms. Bartley's father, Julian Bartley, Sr., was a counsel general in the Kenyan embassy. Her younger brother, Julian Bartley, Jr., was interning in the Kenyan embassy that summer. Both were killed during that bombing.

In the memory of all of the victims of those bombings, Edith Bartley started a campaign to remember and pay tribute to them. She was the driving force behind the bill we are considering today, which would treat the victims of the two embassy bombings in East Africa and their families the same way as our other more recent victims of the same terrorist organization.

I would like to commend and recognize the gentlewoman from California (Ms. WATERS) for her hard work on this bill, and also the chairman of the Committee, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his efforts in passing the bill. There are many others who are associated with the bill that we would also like to thank.

But on this day, when we remember all of the victims of the embassy bombings, we reaffirm our commitment to treating all of our victims of terrorism and their families equally. I urge my colleagues to support the bill.

Ms. WATERS. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Florida (Mr. BOYD), a gentleman who has worked very hard and has several constituents that were lost in that bombing.

Mr. BOYD. Mr. Speaker, I thank the gentlewoman for yielding time to me. I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), along with the gentlewoman from California (Ms. WATERS), for their efforts to get us to this point today, and also thanks to the gentleman from Missouri (Mr. BLUNT) and the gentleman from Maryland (Mr. WYNN) for their efforts on behalf of this legislation.

As an original cosponsor of this legislation, I am honored to speak in support of H.R. 3375. We have heard a lot about why we have the legislation and what it does, so what I want to do is I would like to focus my comments on telling Members a little bit about two of the 12 Americans that gave their lives on behalf of our country on that day, on August 7, 1998. Both of these service people, these servants, American servants, were killed in Nairobi, Kenya.

Air Force Master Sergeant Sherry Lynn Olds of Panama City has often been described by friends and family as very independent, industrious, caring, and thoughtful. She joined the Air Force after graduating from junior college, followed in the footsteps of her father, who is a retired civil servant.

According to her mother, Sergeant Olds had at least two ambitions: she wanted to see the world, and she wanted to finish her education. Sergeant Olds did both, eventually receiving a degree from the University of South Carolina. She had been assigned to the embassy in Kenya for 1 year, and had just returned to Nairobi in June, 1998, after spending 2 months attending the NCO school in Alabama. This course would make Sergeant Olds eligible for an eventual promotion to achieve Master Sergeant.

At the time of her death, she was assigned to the Air Force Security Element at the embassy in Kenya, and was 40 years old. Sergeant Olds is survived by her parents, Delbert and Mary Olds of Panama City.

Marine Sergeant Jesse N. Aliganga of Tallahassee was born in Oakland, California, and grew up in Pensacola, Florida. He was an energetic and ambitious young man who liked drawing, reading, Greek mythology, playing the saxophone in his high school band, and collecting comic books.

Sergeant Aliganga had wanted to make sergeant in his first tour of duty in the Marine Corps, and he accomplished that goal in July of 1998. He had recently signed a 30-month extension in the service to become an embassy guard.

After postings in Okinawa, Japan, and Camp Pendleton, California, Sergeant Aliganga completed the security guard school in Quantico, Virginia, and was sent to Nairobi. At the time of his death, he was assigned to the Marine Security Unit at the embassy in Kenya and was 21 years old. Sergeant Aliganga is survived by his mother, Clara, and his sister, Leah Colston, both of Tallahassee.

In light of the attacks of September 11, Mr. Speaker, this is obviously a

very painful and difficult time for many of these families that were affected by past terrorist attacks. Several of us in Congress have been trying for the past 3 years to enact a just-compensation system for the families of the embassy bombings.

I am grateful, again, to the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentlewoman from California (Ms. WATERS), and the gentleman from Missouri (Mr. BLUNT), and my other colleagues here today for coming together and devising a system that will simply use the process that is in place for the victims of the attacks on the World Trade Center and the Pentagon.

It is only fair, given that the evidence for responsibility of these horrible events points to Osama bin Laden and the al Qaeda network, that the victims of the attacks on our embassies and the victims from New York, Pennsylvania, and Virginia are treated equally.

Therefore, I urge my colleagues to vote for H.R. 3375.

Ms. WATERS. Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from Maryland (Mr. WYNN), another gentleman who has worked very hard.

Mr. WYNN. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, let me begin by also thanking her for her leadership in this very important effort. I would also like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his outstanding work, but I would particularly like to note the work of the gentleman from Missouri (Mr. BLUNT) in making this legislation possible and in getting it to the floor today.

Mr. Speaker, as we compensate the many families who have suffered and lost loved ones on September 11, we must never forget the American families who lost loved ones in the African embassy bombings.

On August 7, 1998, two truck bombs exploded minutes apart, killing 224 people at the U.S. embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania. The victims of the embassy bombings were killed by a madman under the same cold-blooded direction that resulted in the deaths of thousands of people on September 11: Osama bin Laden and his terrorist network.

I strongly support H.R. 3375, the Embassy Employee Compensation Act, which would allow the American family members of the African embassy victims to receive compensation under the same procedure provided for the families of the victims from the September 11 attacks.

The September 11 Victims Relief Fund was authorized under the aviation bailout bill enacted in September. Under that bill, the victims or the families of those killed may apply for tax-free relief from the Federal Victims Compensation Fund.

□ 1200

Like the September 11 Victims Compensation Fund, the African Embassy Victims Compensation Act would authorize a special master established by the current victims' funds to consider appropriate compensation for the families of embassy victims under the same process as the families of the victims of September 11.

Three embassy bombing victims with strong ties to Maryland lost their lives in the horrific bombing in Nairobi, Kenya. Jean Dalizu, age 60, was an executive assistant in the U.S. Liaison's Office killed in the embassy. She is survived by her son, Lawrence Hicks, a resident of Capital Heights, Maryland, in my district. Two victims from Bowie, Maryland, Consul General Julian Bartley, 55, and his son, Jay Bartley, 20, were killed in the embassy as well. Mr. Bartley had 3 decades of government service in several countries and his son was working in the embassy during the summer. Mr. Bartley had also worked as a congressional fellow on Capitol Hill which is where I met him.

I urge my colleagues to vote in favor of H.R. 3375. We must do everything to assist the families of the African embassy bombings. While monetary compensation will not bring back the lives of loved ones, it will help families move forward. This is a case of fairness, equitable compensation but, most importantly, it is a case of compassion.

Ms. WATERS. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. LINDER). The gentlewoman from California (Ms. WATERS) has 6 minutes remaining.

Ms. WATERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LEE) who has worked hard on this issue.

Ms. LEE. Mr. Speaker, I rise in strong support of H.R. 3375.

Mr. Speaker, it has been 4 years since the Kenyan and Tanzanian embassy bombings and it is long past the time that the United States compensates the individuals or the families of those who were injured or killed in the bombings. This is way overdue and I thank the gentlewoman from California (Ms. WATERS) for her leadership.

These individuals and families will forever suffer. This is the least that we should do. As we seek to compensate the embassy employees, the United States must not forget over 4,000 Tanzanian and Kenyan nationals who were also injured in the embassy bombings. These foreign nationals were a productive part of their countries' labor force. Now many of them also have been injured so severely that they are physically unable to contribute to their communities or provide for their own livelihood.

I am introducing legislation that would provide relief for those individuals and urge my colleagues to join us also in supporting the African nationals who have been equally affected by the embassy bombings. Once again, I thank my colleague from California for her persistence and steadfastness in working in a bipartisan way. I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for working together to make sure that this legislation came to the floor.

Ms. WATERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. OWENS).

(Mr. OWENS asked and was given permission to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, I rise in strong support of this act and hope that it will be administered very much in the same way that the Victims Compensation Act that already exists is administered.

I think the Victims Compensation Act that we passed several months ago was a great landmark for America, a great landmark in terms of celebrating the spirit of the Great Angels. I think I have said before that there is a schizophrenic personality in our Nation, the Great Angels and the Giant Scrooges. The Giant Scrooges' spirit is expressed in the fact that we sometimes demonize welfare mothers and children and we refuse to pass a minimum wage bill. On the other hand, we do have great generous acts that are unparalleled in history, and throughout the world you will find people no more generous than Americans and America as a nation. I think the Victims Compensation Act that was passed in connection with the September 11 tragedy was an example of that generosity.

The formulas that were worked out by the master for that should stand for all time, and it should be the pattern. There are people who have some difficulties with certain aspects of it but they are working it through.

And, finally, I hope we will have a pattern that we can use in the future and we will not have a situation where the victims of the embassy bombings in Kenya and Tanzania have had to wait for 4 years to get a hearing on the floor of Congress, and even now it is not certain what the procedure will be.

Let us let the Great Angels spirit that prevails in the case of September 11 victims stand for all time as an example of how generous our Nation can be, recognizing that all Americans are in this together. And when we make sacrifices, we are willing to take care of those who are left behind.

Ms. WATERS. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER pro tempore. The gentlewoman from California (Ms. WATERS) is recognized for 2½ minutes.

Ms. WATERS. Mr. Speaker, I have no other speakers and I would just like to say in closing that this is one of our finer moments. We have a lot of problems in our society and there are many of us who are oftentimes criticizing this body and even some of our colleagues; but it is moments like this that help you to understand that no matter how long it takes, no matter

how difficult it is, that if we are persistent we can indeed do the right thing.

I would like to thank one young lady who is not a Member of this House, who happens to be the daughter of and the sister of two of the victims, Miss Edith Bartley. She worked so very hard. She never gave up. She went from Member to Member to Member, telling the story over and over again. And whenever we had a failed attempt in some committee, she never despaired. She came back and she would start all over again.

So I am delighted, Mr. Speaker, that on this day on the floor of this House we have the opportunity to pass this legislation that will take care of those bombings that took place in Africa 4 years ago. That was the tip of the iceberg for the work of Osama bin Laden and al Qaeda. And I guess if we had been wise enough, if we had been visionary enough to be able to follow what was happening and to connect the dots, perhaps things would have been a little bit different here in the United States. But let me just say today we kind of make up for the long wait for the families of those victims. And in saying that, again, I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership. He did not have to take this bill up. He did. And he provided assistance to all of us. I would like to thank my colleague, the gentleman from Missouri (Mr. BLUNT) and all of the other Members who are original co-sponsors and who have worked so hard to make sure there is some justice for these families.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this bill is a matter of simple equity. That is to give the United States citizens who are the victims of the al Qaeda strike in East Africa in 1998 the same rights to get funds from the special master as those who are the victims of the al Qaeda strikes on September 11 in New York City and at the Pentagon.

Now, perhaps the al Qaeda strikes in East Africa went under the radar screen with most Americans as well as many Members of Congress. But those two embassy properties, one in Nairobi, Kenya, and the other in Dar es Salaam, Tanzania, are just as much the sovereign territory of the United States of America as the land on which the World Trade Center rested and the land on which the Pentagon rests today. So passing this bill will mean that we do not have different strokes for different folks depending upon whether the people were killed by al Qaeda in East Africa or whether they were in New York City or in Northern Virginia. So, as a matter of equity, as a matter of fairness, and as a matter of preventing different strokes from happening for different folks, I would urge the passage of this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3375.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ENCOURAGING WORK AND SUPPORTING MARRIAGE ACT OF 2002

Mr. WELLER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4626) to amend the Internal Revenue Code of 1986 to accelerate the marriage penalty relief in the standard deduction and to modify the work opportunity credit and the welfare-to-work credit, as amended.

The Clerk read as follows:

H.R. 4626

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Encouraging Work and Supporting Marriage Act of 2002''.

TITLE I—ACCELERATION OF MARRIAGE PENALTY RELIEF

SEC. 101. ACCELERATION OF INCREASE IN STANDARD DEDUCTION FOR JOINT RETURNS.

(a) IN GENERAL.—Paragraph (7) of section 63(c) of the Internal Revenue Code of 1986, as amended by section 301 of the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended to read as follows:

''(7) APPLICABLE PERCENTAGE.—For purposes of paragraph (2), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	***The applicable percentage is—***
2003 or 2004	*170*
2005	*174*
2006	*184*
2007	*187*
2008	*190*
2009 and thereafter	*200.''.*

(b) CONFORMING AMENDMENT.—Subsection (d) of section 301 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''December 31, 2004'' and inserting ''December 31, 2002''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

TITLE II—MODIFICATIONS TO WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT

SEC. 201. MODIFICATIONS TO WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) ELIGIBILITY OF EX-FELONS DETERMINED WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4) of section 51(d) of the Internal Revenue Code of 1986 is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(b) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF FOOD STAMP RECIPIENTS.—Clause (i) of section 51(d)(8)(A) of such Code is amended by striking ''25'' and inserting ''30''.

(c) CLARIFICATION OF TREATMENT OF INDIVIDUALS UNDER INDIVIDUAL WORK PLANS.—Subparagraph (B) of section 51(d)(6) of such Code (relating to vocational rehabilitation referral) is amended by striking ''or'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', or'', and by adding at the end the following new clause:

''(iii) an individual work plan developed and implemented by an employment network pursuant to subsection (g) of section 1148 of the Social Security Act with respect to which the requirements of such subsection are met.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2002.

SEC. 202. CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 51(d) of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by adding at the end the following new subparagraph:

''(I) a long-term family assistance recipient.''

(b) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—Subsection (d) of section 51 of such Code is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

''(10) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

''(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

''(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

''(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

''(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

''(ii) as having a hiring date which is not more than 2 years after the date of such cessation.''

(c) INCREASED CREDIT FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 of such Code is amended by inserting after subsection (d) the following new subsection:

''(e) CREDIT FOR SECOND-YEAR WAGES FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

''(1) IN GENERAL.—With respect to the employment of a long-term family assistance recipient—

''(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 40 percent of the qualified second-year wages for such year, and

''(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

''(2) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

''(A) which are paid to a long-term family assistance recipient, and

''(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

''(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

''(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

''(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'.''

(d) REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.—

(1) IN GENERAL.—Section 51A of such Code is hereby repealed.

(2) CLERICAL AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 51A.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2002.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. WELLER) and the gentleman from Massachusetts (Mr. NEAL) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring H.R. 4626, legislation sponsored by my friend, the gentleman from New York (Mr. HOUGHTON) and myself, legislation called the Encouraging Work and Supporting Marriage Act of 2002 to the floor today.

This is important legislation because it helps American families in two ways. First, it makes marriage penalty relief more quickly available to 21 million low and moderate income married working couples. Second, it facilitates the transition from welfare to work by simplifying the work opportunity and welfare-to-work tax credits and making them easier for employers as well as employees to use.

This past year, in what we know as the Bush tax cut, last year's tax law, which President Bush signed into law June of 2001, it phased out the marriage tax penalty for 43 million married working couples. It included a phaseout of marriage penalty relief particularly targeted to low and moderate income married couples which we include in today's legislation which resulted from the doubling of the standard deduction which was to begin in the year 2005.

This legislation before us today accelerates this relief for low and moderate income married working couples by increasing the standard deduction for joint filers to twice that for singles and reducing the marriage penalty by many low and middle income Americans beginning next year in 2003. It is estimated that 9 million American married couples currently use the standard deduction. With this legislation they will begin to see marriage tax relief next year instead of in 2005 as originally planned.

H.R. 4626 will also help simplify the tax code. With an earlier phaseout of the marriage tax penalty, 300,000 married working couples who now use the standard deduction instead of itemizing their taxes next year will be able to use the standard deduction and no longer need to itemize. Again, 300,000 married working couples will see their taxes simplified as a result of this marriage tax penalty relief in this legislation.

Besides affecting the marriage taxes penalty, H.R. 4626 will also help simplify the work opportunity and welfare-to-work tax credits, two very successful programs which have given hundreds of thousands of low income Americans the opportunity to go back to work. As we have often said in this House Chamber, the best solution to welfare is a job.

And I would also note that President Bush recently traveled to Chicago, to my home State, and visited a United Parcel Services facility to highlight the success of this program which has given tens of thousands of Chicago area residents the opportunity to have a job, to have a chance to go to work and get off welfare. Current law provides a work opportunity tax credit to employers who hire individuals from 8 target groups that are considered hard to hire. Employers who hire long term TANF recipients can claim a separate welfare-to-work tax credit. The proposal would simplify the tax code to combine the 2 tax credits and conform most of their rules, making the credits easier for employers to use.

Additionally, this bill eliminates the family income tax for ex-felons under work opportunity tax credit. Under current law, employers can claim the work opportunity tax credit for hiring ex-felons only if he or she meets a complicated family income test which requires a State to document the income of all members in the ex-felon's household.

H.R. 4626 eliminates the family income tax for this group, thus simplifying the work opportunity tax credit and helping ex-felons transition into the workplace.

Finally, H.R. 4626 increases eligibility age limit for food stamp recipients. Under current law, employers can claim the work opportunity tax credit for hiring certain food stamp recipients between the ages of 18 to 25.

□ 1215

This proposal would increase the age to 3 and give more low-income individuals the opportunity to go to work.

Mr. Speaker, H.R. 4626 is a good bill. It has bipartisan support, and I would note that this legislation passed the House Committee on Ways and Means on a unanimous voice vote.

This legislation encourages the values we hold most dear: marriage, family, and hard work. I encourage my colleagues to vote for this bill to eliminate the marriage tax penalty more quickly for low-income and moderate-income married working couples and also help facilitate an easier transition from welfare to work.

Mr. Speaker, I reserve the balance of my time.

Mr. NEAL of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

I want to agree with what the gentleman from Illinois (Mr. WELLER) said a couple of moments ago, that this measure did indeed pass through the Committee on Ways and Means on a unanimous vote. So for the purpose of this moment, I think that we are really discussing the benefits of this legislation for the American citizenry.

What we should be debating, as opposed to just discussing here, is how we are going to pay for this tax relief. I am a supporter of the measure that is in front of us, and indeed the Committee on Ways and Means voted for it as well. But what we are not voting on here today, Mr. Speaker, and what we should be voting on here today, and what we have been prohibited from voting on for the last few weeks is a way to ensure that while providing for this tax relief that we do not steal from the Social Security and Medicare trust funds. That is what this House has to have a debate about, not simply a discussion.

Last week, the Republican leadership in the House withdrew consideration of this very important legislation, in my judgment, to protect a certain group that has been characterized as being financial traitors. We wanted to pay for this legislation, because we agree with the merit of what has been offered by the gentleman from Illinois (Mr. WELLER), by implementing provisions of H.R. 3884, the Corporate Patriot Enforcement Act, a bill authored by myself and the gentleman from Connecticut (Mr. MALONEY).

Knowing that this House would vote overwhelmingly to stop the exodus of American corporations to tax havens, the leadership of this House opted to impose procedural barriers to preclude our amendment.

Mr. Speaker, once again the New York Times highlighted yesterday morning on its front page what precisely is happening. The leadership in this institution continues to procrastinate. Our constituents around the country want Congress to act now to stop these corporations from shelving their patriotism to save a few bucks. And as we discovered yesterday, not only to save what they have claimed to be money for the shareholders, but we have now discovered what will happen to the salaries of the executives once they leave. It is unconscionable to have this occur at the same time when we could be taking a vigorous and measured response to end it.

The Neal-Maloney Corporate Patriot Enforcement Act would immediately and permanently shut down the exodus of American corporations to tax havens, and end benefits for those who set

up shell headquarters in island countries to avoid U.S. corporate income taxes.

Again, the gentleman from Illinois (Mr. WELLER) is right. Hardworking American families are entitled to tax relief, but I am sure these families do not want to burden their children by placing our Social Security and Medicare trust funds and our budget at risk.

Let us pay up front for the Marriage Penalty Relief Act. Let us stop the procedural games and pass the Neal-Maloney bill to stop the corporate expatriates.

Mr. Speaker, I reserve the balance of my time.

Mr. WELLER. Mr. Speaker, I yield myself such time as I may consume.

Briefly, in response to my friend from Massachusetts, I would note today's legislation before us is about giving welfare recipients the opportunity to go to work and providing greater marriage tax relief.

The issue of inversions that the gentleman from Massachusetts (Mr. NEAL) has brought up is an issue of bipartisan concern. I particularly want to commend my colleague, the gentlewoman from Connecticut (Mrs. JOHNSON), for her leadership on this issue and sponsorship of H.R. 4756.

I would note the flaws in the gentleman from Massachusetts' (Mr. NEAL) proposal, some suggest may even promote foreign takeover of U.S. companies under the proposal that he has offered, and that is why out of fairness a hearing has been scheduled by the House Committee on Ways and Means on June 13. Also, as part of that hearing, we will be looking at a Treasury review and study which was released this past Friday.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. HOUGHTON), one of the leaders of the welfare-to-work initiative.

Mr. HOUGHTON. Mr. Speaker, I would like to rise in support of H.R. 4626, and I would like to thank the gentleman from Illinois (Mr. WELLER) for all the great work he has done and also thank the gentleman from California (Mr. THOMAS) for his support and the whole broad parameter of encouraging work and supporting marriage.

This is a very simple and a straightforward piece of legislation. It improves the Work and Opportunity Act. It reduces the marriage penalty for lower-middle income people, and this is it. There are lots of things I would have gone over, but the gentleman from Illinois (Mr. WELLER) has described those very eloquently, and I will not try to duplicate his words. However, I would just like to mention several facts.

First of all, this bill combines the work and opportunity and the welfare-to-work credit, and while it increases the welfare-to-work credit from 35 to 40 percent, for the first year, very, very important feature here, it would also extend this 40 percent credit into the second year for employers who retain the workers. Also, it would expand incentives for vocational rehabilitation.

This is important. It would eliminate family income tests for ex-felons, which the gentleman from Illinois (Mr. WELLER) mentioned, and the test is a really significant impediment to hiring ex-felons.

Finally, the legislation would increase the age limitation for food stamps recipients from 25 to 30; and what this is going to do, it is going to assist many people, many men who should be taking advantage of the work opportunity tax credit, but where the current age limit prevents their eligibility.

So, Mr. Speaker, let me say this legislation is a good piece of work. It will increase the opportunity for those who want to work and the need to save and leave welfare for steady, long-term employment.

I appreciate my colleagues' understanding of this, and I appreciate the gentleman from Illinois' (Mr. WELLER) leadership.

Mr. NEAL of Massachusetts. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN), who has been a leader on this issue and question as well.

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, I want to congratulate the gentleman from Massachusetts (Mr. NEAL) for bringing up this issue of how we pay for this legislation and urging that we use the Neal-Maloney bill to pay for it.

Once again, the Republican majority has come forth with an idea, in this case a good one, without paying for it except to divert Social Security and Medicare moneys. That is how they are paying for everything. As we dip more and more into debt, we use more and more moneys that are payroll taxes for Social Security and Medicare.

So what the gentleman from Massachusetts (Mr. NEAL) has suggested is let us pay for it with a good idea, and that is the Neal-Maloney bill; but my colleagues abuse our House rules by not letting us bring it up.

Once again, what they are saying is we will bring it up on suspension so there is no way to propose a good pay-for for a good idea. So they have a bad pay-for for a good idea. Why? They do not want up and down votes on these issues. They are going to do the same apparently or try to do the same on debt relief.

Look, we do not really need hearings. My colleagues have not held many hearings on many of these issues in the Committee on Ways and Means, and now the dodge for not taking up Neal-Maloney is let us hold a hearing. What I suggest is let us have some action.

The gentleman from Connecticut (Mr. MALONEY) has been out on the streets working this issue, right? The gentleman from Massachusetts (Mr. NEAL) has been talking about this issue for how long? A long time. It is time for action.

These are paper reincorporations, purely filing some paper to duck paying taxes to the United States of America. So if my colleagues really care about the American taxpayer, as they claim, they will let us bring up this proposal and it will pass; but instead, to kind of help out some people who are escaping taxes, they delay action on this, and it hurts the American taxpayer, the people that we represent.

So I want to salute the gentleman from Massachusetts (Mr. NEAL) and the gentleman from Connecticut (Mr. MALONEY) for pressing this issue. Ultimately, we will prevail.

Mr. WELLER. Mr. Speaker, I yield myself such time as I may consume.

I would remind my colleagues that today we are focusing on eliminating the marriage tax penalty and giving welfare recipients the opportunity to go back to work.

I would also note this legislation is paid for through the budget which the House has adopted which allows for an additional $28 billion in tax provisions. It is estimated this provision will cost $1 billion or less. So it fits well within those parameters and does not need to be paid for under the House-adopted budget.

Mr. Speaker, I yield 4 minutes to the gentleman from Arizona (Mr. HAYWORTH), one of our leaders on the Committee on Ways and Means, a distinguished gentleman who has been a real leader on bringing tax fairness to those married working couples, as well as giving opportunity to those who need to work.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Illinois (Mr. WELLER) for the recognition.

Listening with interest to the debate; and indeed those who may join us, either in the gallery, Mr. Speaker, or electronically across the country, and indeed, around the world, may view with curiosity the debate thus far.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LINDER). The gentleman will suspend. The gentleman will refrain from referencing the gallery or the TV audience.

Mr. HAYWORTH. Mr. Speaker, I apologize. Those who listen to our debate, and I thank the gentleman. It was not intentional to violate House rules. I thank the Speaker for his attention to discourse, and I will return to it right now.

Perhaps as the Speaker listens to the debate and as our colleagues in the Chamber listen to the debate, they might be mystified that what we have done is transform a debate on expanding opportunities for welfare to work and to lift the burden of the marriage tax penalty on those who need that help and thereby help bolster the institution of marriage to be caught up in the debate on other bills and other issues that we indeed will address in the days ahead. It is an interesting concept to focus on process in the House rather than content of the legislation.

The legislation before us today helps us simplify the Tax Code. It increases the standard deduction for married couples, 300,000 married couples, would allow them to claim the standard deduction on their tax return rather than itemize. That, in itself, is a major simplification.

It seems to me, Mr. Speaker, that we should work to emphasize policies that are family friendly, policies that would support marriage when we offer this economic incentive. It allows us to accelerate the lifting of the burdensome marriage tax penalty. It accelerates relief for 21 million married couples, and that is vitally important to offer them access to the American dream.

My friend from New York was here just moments ago in this Chamber, Mr. Speaker, addressing the entire concept of welfare to work, indeed to complement the legislation passed last week, to build upon a major success over the last half decade. We need to offer opportunities for people to get to work.

My colleague from Illinois said it best. The best social program, the best opportunity to lift the burden of poverty is to offer people jobs, to get them into the workforce, and enhancing the welfare-to-work tax credit increases an employer's incentive to hire long-term recipients of the temporary assistance to needy families.

□ 1230

This allows us to put people back to work.

Mr. Speaker, I would be remiss if I did not address something that has been repeated here time and again. It is important to clear up any misconception that may have been offered on the floor by my friends on the other side of the aisle. I appreciate their newfound adherence to what they believe to be sound fiscal policy, but the fact is this reasonable, rational, bipartisan reduction in taxes is allowed for in our House-passed budget resolution. Indeed, the budget resolution allows for a $28 billion reduction in taxation. We are not taking a penny, nor a dollar, nor a quarter nor a nickel, we are not going into Social Security and Medicare revenues to pay for this.

Indeed, as disturbing as it is, if that indeed is the charge, would our friends on the other side vote ''no'' to expand this tax relief, an opportunity for those who look to seize it? I hope that would not be the case.

I would hope, Mr. Speaker, that at the end of the day, they will rise and join us in support of this legislation.

Mr. NEAL of Massachusetts. Mr. Speaker, the previous speaker is quite correct. He did use the word welfare. It occurred to me that you will not catch that bunch that are currently moving to Bermuda sleeping on the grates when they get there. You can bet on that. The point that we raised earlier is this is merely a discussion of the issue, but we want, as Democrats, to have a substantive debate about these companies that are moving to Bermuda to avoid taxes, and who better to speak about it than the distinguished gentleman from Washington (Mr. MCDERMOTT) to whom I yield 3 minutes.

Mr. MCDERMOTT. Mr. Speaker, I was glad to come out here and join in the preparing the press-release-of-the-week event. The Republicans say, well, every week we have got to have something to put out in the press to confuse the public, so let us go vote another tax cut. It reminds me of that old saying, ''Tonight we drink, tomorrow we'll fix the truck.''

What are you drinking from? You are drinking from the tax cut cup. You are putting another billion dollars in the hole. And for anybody to get up at that other side of the well and say that that does not come out of Social Security means he has paid no attention to the fact that we are going to end this year $300 billion in debt.

Why add one more? Well, we have to have the press release, right? Even more, though, let me tell you what is going on here. The reason this is out here on the suspension calendar, with no hearings in the committee, just out on the suspension calendar, is because they did not want to bring it to the committee. They did not want to give the gentleman from Massachusetts (Mr. NEAL) the opportunity to raise the question of the runaway companies and paying for this particular option. There is no payment in here. This is just taken out of the Social Security. So the leadership on the Committee on Ways and Means said, I know how we can get around this uncomfortable situation that the gentleman from Massachusetts is going to put us in, forcing us to vote about whether we want people running away, creating paper companies and taking tremendous profits because they are no longer an American company. Why, one of them even in Connecticut, just recently, makes hand tools. They decided they would go to Bermuda, create a paper company. As luck would have it, there might be a member on the Committee on Ways and Means who would be embarrassed by having to vote on that issue. So the chairman said, ''Don't worry, we'll never let it come up in the committee. We will send this directly to the floor.''

At some point, somebody has got to talk seriously out here. You cannot blame the fact that a tool company goes to Bermuda on 9/11 or on the war on terrorism. Why would they be moving from Connecticut to Bermuda? Is it to get away from the terror in this country? They went there for tax purposes and everybody knows it. I could give you a list as long as my arm of companies doing it all the time to avoid paying taxes in this country. They want the protection of the United States, they want the military, they want us patrolling the oceans so that they can send their exports everywhere, but they do not want to pay for it.

I wish that I would hear the President of the United States say, ''We all have to make a sacrifice, we all have to pay taxes,'' and that he would say it to his friends in Bermuda, ''Come on home. Pay your share.''

This is a terrible bill.

Mr. WELLER. Mr. Speaker, I yield myself such time as I may consume.

Responding briefly to my colleague from Washington State, a friend of mine on my committee, being a member of the House Committee on Ways and Means, I would note that today's debate is whether or not we more quickly phase out the marriage tax penalty, and do we make it easier for those on welfare to go to work. I realize that with a hearing coming up on June 13 that the gentleman from Massachusetts (Mr. NEAL) requested and agreed to and, of course, on an issue that the gentlewoman from Connecticut (Mrs. JOHNSON) has been a leader on, that we are planning to have plenty of debate and discussion of the issue that they are raising. The bottom line is today we want to eliminate the marriage tax penalty, and today we want to help those who are on welfare go to work.

Mr. Speaker, I reserve the balance of my time.

Mr. NEAL of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. LYNCH), a worthy successor to McCormick and O'Neill, newly elected here from South Boston.

Mr. LYNCH. Mr. Speaker, in response to my esteemed colleague from Arizona, I think this is a perfect time to talk about correct tax policy in this country. I think you will find widespread agreement that there is support for reducing the marriage penalty. It is a sensible adjustment to our tax code. However, I think you will also find widespread agreement here that stopping American companies from avoiding their fair share of taxes by incorporating into offshore tax havens is also a sensible adjustment to our tax code.

Mr. Speaker, I rise in support of the gentleman from Massachusetts (Mr. NEAL) and the gentleman from Connecticut (Mr. MALONEY) and their recommendation entitled the Corporate Patriot Enforcement Act. Unfortunately, the Republican leadership is not allowing us to debate that bill today. We quite frankly are in a time of great challenge in this country. It is a time when we should set aside our partisan squabbling and pull together and do what is necessary, do what is right for this country.

There are some Americans, however, Mr. Speaker, who seem to feel that the burden of defending our country should fall rather lightly on them. In the last few years, we have seen a growing epidemic of companies voting to, quote, unquote, reincorporate themselves in Bermuda, in Barbados, in offshore tax havens, asking us to believe that buying a post office box in Bermuda or

Barbados is a legitimate way to avoid paying to support our efforts against terrorism, paying to support our troops overseas. Profits and jobs are shipped abroad by this process. Those profits are not reinvested in the United States. And it leaves their share, these runaway corporations, it leaves their share of the tax burden to fall unfairly on those companies and individuals who are too honest and are too patriotic to engage in these kinds of schemes.

Mr. Speaker, the executives of these companies have practically dared Congress to shut down their offshore tax schemes. I believe we should take them up on that challenge.

Mr. WELLER. Mr. Speaker, I yield myself such time as I may consume.

To briefly respond to my friend and colleague from Massachusetts, again today's debate is about do we more quickly eliminate the marriage tax penalty, and do we give thousands, if not millions, more of those who are on welfare the opportunity to go to work? I would note that the issue that has been raised, of course, has been an issue that has been led on by the gentlewoman from Connecticut (Mrs. JOHNSON), and as the gentleman from Massachusetts (Mr. NEAL) and the gentlewoman from Connecticut (Mrs. JOHNSON) have both requested, the committee will be addressing this on June 13.

Mr. Speaker, I reserve the balance of my time.

Mr. NEAL of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

They won't give us a vote in this institution on this measure, the Corporate Patriot Enforcement Act. This is the way we have to do it. I will assure the folks on the other side of the aisle this is the way we are going to continue to do it until we get an up-or-down vote on this question.

Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. MALONEY) who has been a leader on this issue. He knows it firsthand and indeed has been a passionate critic of what these corporations are doing in an effort to scheme to avoid taxes.

Mr. MALONEY of Connecticut. Mr. Speaker, I rise in support of H.R. 4626, the legislation before us today. It is a good measure, but it could be substantially better. This debate is about our tax policy. Tax policy very much is in question. Last month while citizens of this country were paying their income taxes, some of America's largest corporations decided they no longer wanted to pay their fair share of U.S. taxes. Instead, they sought out a loophole and are trying to exploit it for their own gain. For little more than the cost of a post office box in an offshore tax haven like Bermuda, U.S. companies are trying to avoid millions of dollars in Federal taxes. The tax dodgers may set up paper headquarters in Bermuda, but they continue to operate in the United States. They still receive Federal, State and local services such as police, fire and schools and, of course, they still rely on the protection of our courageous armed services here at home and around the world. The only difference is they now get it all for free while U.S. citizens and loyal U.S. companies continue to pay the bill. This is unpatriotic, especially in light of our current economic situation. We are now seeing a major growing budget deficit, expected to be as much as $100 billion this year. The huge Federal surplus we had only a year ago has been entirely wiped out, mostly because of erroneous, irresponsible tax policy. So critical programs like Social Security and Medicare are in serious jeopardy just as the largest generation in the history of this country is getting ready to retire.

Stanley Works in Connecticut, which has been alluded to previously, stamps ''USA'' on its products while at the same time ships its jobs overseas, ships its corporate entity to Bermuda, and will end up evading virtually all of its U.S. taxes. But that is not the end of the outrage that we face. I had previously noted that the U.S. Treasury and small shareholders will have to bear the brunt of this unfair tax scheme. In fact, if this tax dodge goes through, individual Stanley shareholders will have to pay an estimated $150 million in additional capital gains taxes. But yesterday's New York Times reported on the real scope of this outrage, and I quote:

''Even if their shares rose 11.5 percent, they, the shareholders, will barely break even after taxes. At Stanley Works, the CEO stands to pocket an amount equal to 58 cents of each dollar the company would save in corporate income taxes in the first year.''

That is $17.4 million of an estimated $30 million in savings out of the Treasury into the CEO's individual pocket. Additionally, the CEO, if he receives all of the options he is eligible for under the current plan, would gain $385 million by exercising those options. The CEO is raiding the U.S. Treasury at a time of war at the expense of the taxpayers of this country and the shareholders that the CEO is supposed to represent. The gentleman from Massachusetts (Mr. NEAL) and I have offered legislation on this issue. We call on the majority to allow it to be brought forward for a vote.

Mr. WELLER. Mr. Speaker, I yield myself such time as I may consume.

I would briefly like to remind the gentleman from Connecticut that the Committee on Ways and Means will be conducting a hearing on this subject which he raises. I also note that the gentlewoman from his home State Connecticut (Mrs. JOHNSON) has been a leader on this issue with the legislation that she has offered, H.R. 4756. That legislation, as well as the gentleman from Massachusetts' legislation, will be the subject of the Committee on Ways and Means hearing on June 13.

Mr. Speaker, I reserve the balance of my time.

Mr. NEAL of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

We have a request for $48 billion more for national defense which the President is going to largely get, $38 billion more for homeland security, and these corporations are moving to Bermuda rather than joining in with the rest of the American family and paying their share.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, the tragedy of September 11 really brought out the best of the American spirit, with so many people across this country asking, ''What can I do to help my country? What can I do to help my neighbors?'' But unfortunately that spirit did not extend to some of the larger multinationals in this country. Recognizing that there would be additional costs for national security, for homeland security, their first concern seems to have been, ''What can I do to dodge my fair share of the cost of additional security, which, as a multinational operating around the globe, I particularly need?

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So we have seen a series of companies decide that their sacrifice for America would be buying a mailbox in Bermuda or some other country and would shift the responsibility of paying for our enhanced national security needs on to ordinary taxpaying families.

Stanley Tool Company, which the gentleman from Connecticut (Mr. MALONEY) and the gentleman from Massachusetts (Mr. NEAL) have taken the lead in focusing attention on the problem and demanding action now. Our Republican colleagues prefer studying the problem until so many corporations have departed.

Stanley Tool Company has hammered the American taxpayer. Who do you think is going to pick up the cost of this additional national security? It will not be Stanley Tool. They renounced their American citizenship like these other companies and decided they would go abroad, or at least send their mailbox abroad.

For our Republican colleagues, who never seem to have met an abusive tax shelter that they did not like, this is only one of many types of corporate tax shelters that are abusive and they have avoided taking any action on, but instead tell us that what we need is a study. Well, I have here the study that the Treasury Department just completed on Friday, and if you look in the fine print of that study, you will find one very significant conclusion. The conclusion of the Treasury Department is that we ought to keep multinational corporations from having to send their mailbox abroad by awarding further corporate tax breaks. Treasury's answer is, cut Stanley Tool Company's taxes here so they do not have to pay for a mailbox abroad.

That is not sharing the sacrifice. ''Study'' has been an excuse for inaction, and the call for study this morning invites more inaction. If we keep studying, as they recommend, the only appropriate legislation for this Congress to enact would call to erect a big sign that says: ''Let the last multinational flip off the lights in America.''

I would say that the gentleman from Illinois (Mr. WELLER) is absolutely right about saying that today this debate is about the marriage penalty. It is about the marriage penalty that all of America suffers when the House Republican leadership and this Administration are married to special interests, even to the extent that they let them totally dodge their tax responsibility and instead turn to the Social Security and Medicare trust funds to pick up the tab. That is wrong. That is the kind of a marriage penalty we need to be addressing today by adopting the Neal-Maloney legislation.

Mr. WELLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, briefly responding to the dialogue of my colleague and member of the Committee on Ways and Means, I would note again that he is absolutely right. Today's debate is about eliminating the marriage tax penalty, simplifying the Tax Code for low- and moderate-income working married couplings.

This debate is also about whether or not we give hundreds of thousands, if not millions, of welfare recipients the opportunity to have a job, to have a chance. That is what this debate is about.

I realize there are some who came here to practice campaign rhetoric; it is a campaign season. And the Committee on Ways and Means is conducting a hearing on the issue that the gentlemen and women on the other side have raised this morning.

Mr. Speaker, I reserve the balance of my time.

Mr. NEAL of Massachusetts. Mr. Speaker, I yield myself the balance of my time to close.

The SPEAKER pro tempore (Mr. LINDER). The gentleman from Massachusetts is recognized for 1½ minutes.

Mr. NEAL of Massachusetts. Mr. Speaker, an editorial from the Hartford Courant on May 14 said: ''Guess who will wind up picking up the tab as a result of Stanley's tax avoidance? Other American taxpayers, of course.''

The New York Times on May 13 wrote: ''Even in the best of times, it is outrageous for companies to engage in offshore shenanigans to avoid paying their fair share of taxes. Doing so after the Enron scandal, in dire fiscal times and when the Nation is at war is unconscionable.''

How about the Houston Chronicle on May 9 which stated: ''American companies that have no headquarters, no employees or operations in foreign tax havens should not be able to lower their taxes by acquiring an island post office box. Basic fairness to American companies that remain incorporated in America is at stake.''

How about the Springfield Union News editorial on May 7: ''When a U.S.-based corporation decides to reincorporate, basing its operations in, say, the Cayman Islands when the company has little more than a mailbox there, it can legally avoid millions of dollars in taxes, there will come no better moment than this one as an opportunity to right a wrong. We look forward to a floor vote on this matter.''

How about Paul Krugman writing in the New York Times: ''Flying the flag of convenience and seeking rewards.''

Or columnist Jeff Brown in the Philadelphia Inquirer: ''Yet Stanley won't have to pay its fair share for the good life and safe business climate that we have created for all of them. It shouldn't be allowed to get away with this.''

And one might ask, will it play in Peoria? Let us try the editorial from the Peoria Journal Star as well: ''Tax policy of this sort is outrageously offensive, if not masochistic. It penalizes businesses that have ethically and responsibly done their part and rewards those that do not.''

Mr. Speaker, we would like a vote on our side on the question of these companies moving to Bermuda in this time of war. We want an opportunity to voice to the American people the concerns that they have expressed to us through a vote in this Chamber to stop corporate expatriation.

Mr. WELLER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I rise in support of the Encouraging Work and Supporting Marriage Act of 2002, legislation that accomplishes two goals, that is, a quicker phase-out of the marriage tax penalty for low- and moderate-income workers, and increasing the opportunity for those who are on welfare to have a chance to have a job. That is what this debate is all about.

I know there are other issues that have been raised by some that are in the ''excuse caucus'' of the Democratic Party, who believe there is always an excuse not to do these things. But today we wanted to eliminate the marriage tax penalty. Today we want to increase the opportunity to help those who are on welfare go to work.

Let me give you an example of a couple from the district that I represent who suffer the marriage tax penalty, a result of the complicated Tax Code that we have had and, until President Bush became President, was in place, and thanks to President Bush and the Republican leadership as well as Republican majority in this House of Representatives, we eliminated the marriage tax penalty. Unfortunately, it had to be phased out, we could not do it all at once; but we passed legislation to accomplish that.

Jose and Magdalena Castillo are two laborers from Joliet, Illinois. They are both in the workforce. Because they are married, they file their taxes jointly, it pushes them into a higher tax bracket, they pay the marriage tax penalty, about $1,150 in higher taxes just because they are married. But thanks to the Bush tax cut, which resulted from a Republican majority in this House, Jose and Magdalena Castillo no longer pay the marriage tax penalty.

Today we want to help millions of couples such as Jose and Magdalena Castillo by phasing out the marriage tax penalty more quickly. For those who are low- and moderate-income taxpayers, those who do not itemize, in the phase-in they were not going to receive the full impact of the elimination of the marriage tax penalty to them until 2005.

What we have before us today is legislation that eliminates the marriage tax penalty for low- and moderate-income taxpayers in 2003, next year. As a result of that, 9 million married couples will receive immediate relief, and I will note that 300,000 low- and moderate-income married working couples will no longer have to itemize their taxes as a result of this legislation. That is progress, and I am proud to say this is good legislation.

I would also note that this legislation helps hundreds of thousands of other hard-working, low-income families. This legislation simplifies the Work Opportunity and Welfare-to-Work tax credits. President Bush was in my home area of Chicago just this past week. President Bush went to a facility, it was a UPS, United Parcel Service, facility. They are one of the leading companies in helping those on welfare with an opportunity to go to work. The President highlighted the Work Opportunity Tax Credit, how it has been a successful tool in our effort to give those on welfare a chance, a chance for a job.

Well, the President drew attention to a very successful program that we need to continue to improve. Today's legislation simplifies the Work Opportunity and Welfare-to-Work tax credits. In fact, it combines the two so there is only one, to make it much more simple for those that use, the private business that hires and gives opportunities for welfare recipients.

But also I would note that this legislation gives more low-income welfare recipients the opportunity to participate. If they have a criminal past and they are trying to make right, if they have been an ex-felon, we give greater opportunity because they want to do the right thing and go to work. If they are on food stamps, we raise the eligibility age limit for those on food stamps to participate in the Work Opportunity Tax Credit. We also expand incentives for vocational rehabilitation referrals, again giving more opportunity for low-income individuals to have a chance to go to work and get off of welfare.

This is good legislation, and regardless of some of the rhetoric we have heard today, it is about two things:

eliminating the marriage tax penalty and giving those on welfare an opportunity to go to work. Those are two very noble goals, and I am proud to say that this legislation passed the Committee on Ways and Means unanimously. Regardless of the rhetoric we have heard from the other side from the ''excuses caucus,'' it passed unanimously. They voted for it. My hope is they will vote for it again, because this legislation to eliminate the marriage tax penalty, to give those on welfare a chance, an opportunity to go to work, deserves bipartisan support.

Mr. Speaker, I ask for bipartisan support for this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. WELLER) that the House suspend the rules and pass the bill, H.R. 4626, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. WELLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

N O T I C E

Incomplete record of House proceedings. Except for concluding business which follows, today's House proceedings will be continued in the next issue of the Record.

CONFERENCE REPORT (H. REPT. 107–481)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3448), to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Public Health Security and Bioterrorism Preparedness and Response Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents of the Act is as follows:

TITLE I—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES

Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting

Sec. 101. National preparedness and response.
Sec. 102. Assistant Secretary for Public Health Emergency Preparedness; National Disaster Medical System.
Sec. 103. Improving ability of Centers for Disease Control and Prevention.
Sec. 104. Advisory committees and communications; study regarding communications abilities of public health agencies.
Sec. 105. Education of health care personnel; training regarding pediatric issues.
Sec. 106. Grants regarding shortages of certain health professionals.
Sec. 107. Emergency system for advance registration of health professions volunteers.
Sec. 108. Working group.
Sec. 109. Antimicrobial resistance.
Sec. 110. Supplies and services in lieu of award funds.
Sec. 111. Additional amendments.

Subtitle B—Strategic National Stockpile; Development of Priority Countermeasures

Sec. 121. Strategic national stockpile.
Sec. 122. Accelerated approval of priority countermeasures.
Sec. 123. Issuance of rule on animal trials.
Sec. 124. Security for countermeasure development and production.
Sec. 125. Accelerated countermeasure research and development.
Sec. 126. Evaluation of new and emerging technologies regarding bioterrorist attack and other public health emergencies.
Sec. 127. Potassium iodide.

Subtitle C—Improving State, Local, and Hospital Preparedness for and Response to Bioterrorism and Other Public Health Emergencies

Sec. 131. Grants to improve State, local, and hospital preparedness for and response to bioterrorism and other public health emergencies.

Subtitle D—Emergency Authorities; Additional Provisions

Sec. 141. Reporting deadlines.
Sec. 142. Streamlining and clarifying communicable disease quarantine provisions.
Sec. 143. Emergency waiver of Medicare, Medicaid, and SCHIP requirements.
Sec. 144. Provision for expiration of public health emergencies.

Subtitle E—Additional Provisions

Sec. 151. Designated State public emergency announcement plan.
Sec. 152. Expanded research by Secretary of Energy.
Sec. 153. Expanded research on worker health and safety.
Sec. 154. Enhancement of emergency preparedness of Department of Veterans Affairs.
Sec. 155. Reauthorization of existing program.
Sec. 156. Sense of Congress.
Sec. 157. General Accounting Office report.
Sec. 158. Certain awards.
Sec. 159. Public access defibrillation programs and public access defibrillation demonstration projects.

TITLE II—ENHANCING CONTROLS ON DANGEROUS BIOLOGICAL AGENTS AND TOXINS

Subtitle A—Department of Health and Human Services

Sec. 201. Regulation of certain biological agents and toxins.
Sec. 202. Implementation by Department of Health and Human Services.
Sec. 203. Effective dates.
Sec. 204. Conforming amendment.

Subtitle B—Department of Agriculture

Sec. 211. Short title.
Sec. 212. Regulation of certain biological agents and toxins.
Sec. 213. Implementation by Department of Agriculture.

Subtitle C—Interagency Coordination Regarding Overlap Agents and Toxins

Sec. 221. Interagency coordination.

Subtitle D—Criminal Penalties Regarding Certain Biological Agents and Toxins

Sec. 231. Criminal penalties.

TITLE III—PROTECTING SAFETY AND SECURITY OF FOOD AND DRUG SUPPLY

Subtitle A—Protection of Food Supply

Sec. 301. Food safety and security strategy.
Sec. 302. Protection against adulteration of food.
Sec. 303. Administrative detention.
Sec. 304. Debarment for repeated or serious food import violations.
Sec. 305. Registration of food facilities.
Sec. 306. Maintenance and inspection of records for foods.
Sec. 307. Prior notice of imported food shipments.
Sec. 308. Authority to mark articles refused admission into United States.
Sec. 309. Prohibition against port shopping.
Sec. 310. Notices to States regarding imported food.
Sec. 311. Grants to States for inspections.
Sec. 312. Surveillance and information grants and authorities.
Sec. 313. Surveillance of zoonotic diseases.
Sec. 314. Authority to commission other Federal officials to conduct inspections.
Sec. 315. Rule of construction.

Subtitle B—Protection of Drug Supply

Sec. 321. Annual registration of foreign manufacturers; shipping information; drug and device listing.
Sec. 322. Requirement of additional information regarding import components intended for use in export products.

Subtitle C—General Provisions Relating to Upgrade of Agricultural Security

Sec. 331. Expansion of Animal and Plant Health Inspection Service activities.
Sec. 332. Expansion of Food Safety Inspection Service activities.
Sec. 333. Biosecurity upgrades at the Department of Agriculture.
Sec. 334. Agricultural biosecurity.
Sec. 335. Agricultural bioterrorism research and development.
Sec. 336. Animal enterprise terrorism penalties.

TITLE IV—DRINKING WATER SECURITY AND SAFETY

Sec. 401. Terrorist and other intentional acts.
Sec. 402. Other Safe Drinking Water Act amendments.
Sec. 403. Miscellaneous and technical amendments.

TITLE V—ADDITIONAL PROVISIONS

Subtitle A—Prescription Drug User Fees

Sec. 501. Short title.
Sec. 502. Findings.

Sec. 503. Definitions.
Sec. 504. Authority to assess and use drug fees.
Sec. 505. Accountability and reports.
Sec. 506. Reports of postmarketing studies.
Sec. 507. Savings clause.
Sec. 508. Effective date.
Sec. 509. Sunset clause.
Subtitle B—Funding Provisions Regarding Food and Drug Administration
Sec. 521. Office of Drug Safety.
Sec. 522. Division of Drug Marketing, Advertising, and Communications.
Sec. 523. Office of Generic Drugs.
Subtitle C—Additional Provisions
Sec. 531. Transition to digital television.
Sec. 532. 3-year delay in lock in procedures for Medicare+Choice plans; change in Medicare+Choice reporting deadlines and annual, coordinated election period for 2003, 2004, and 2005.
TITLE I—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES
Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting
SEC. 101. NATIONAL PREPAREDNESS AND RESPONSE.
TITLE XXVIII—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES
Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting
SEC. 2801. NATIONAL PREPAREDNESS PLAN.
Subtitle B—Emergency Preparedness and Response
SEC. 2811. COORDINATION OF PREPAREDNESS FOR AND RESPONSE TO BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.

TITLE I—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES

Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting

SEC. 101. NATIONAL PREPAREDNESS AND RESPONSE.

(a) IN GENERAL.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following title:

"TITLE XXVIII—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES

"Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting

"SEC. 2801. NATIONAL PREPAREDNESS PLAN.

''(a) IN GENERAL.—

''(1) PREPAREDNESS AND RESPONSE REGARDING PUBLIC HEALTH EMERGENCIES.—The Secretary shall further develop and implement a coordinated strategy, building upon the core public health capabilities established pursuant to section 319A, for carrying out health-related activities to prepare for and respond effectively to bioterrorism and other public health emergencies, including the preparation of a plan under this section. The Secretary shall periodically thereafter review and, as appropriate, revise the plan.

''(2) NATIONAL APPROACH.—In carrying out paragraph (1), the Secretary shall collaborate with the States toward the goal of ensuring that the activities of the Secretary regarding bioterrorism and other public health emergencies are coordinated with activities of the States, including local governments.

''(3) EVALUATION OF PROGRESS.—The plan under paragraph (1) shall provide for specific benchmarks and outcome measures for evaluating the progress of the Secretary and the States, including local governments, with respect to the plan under paragraph (1), including progress toward achieving the goals specified in subsection (b).

''(b) PREPAREDNESS GOALS.—The plan under subsection (a) should include provisions in furtherance of the following:

''(1) Providing effective assistance to State and local governments in the event of bioterrorism or other public health emergency.

''(2) Ensuring that State and local governments have appropriate capacity to detect and respond effectively to such emergencies, including capacities for the following:

''(A) Effective public health surveillance and reporting mechanisms at the State and local levels.

''(B) Appropriate laboratory readiness.

''(C) Properly trained and equipped emergency response, public health, and medical personnel.

''(D) Health and safety protection of workers responding to such an emergency.

''(E) Public health agencies that are prepared to coordinate health services (including mental health services) during and after such emergencies.

''(F) Participation in communications networks that can effectively disseminate relevant information in a timely and secure manner to appropriate public and private entities and to the public.

''(3) Developing and maintaining medical countermeasures (such as drugs, vaccines and other biological products, medical devices, and other supplies) against biological agents and toxins that may be involved in such emergencies.

''(4) Ensuring coordination and minimizing duplication of Federal, State, and local planning, preparedness, and response activities, including during the investigation of a suspicious disease outbreak or other potential public health emergency.

''(5) Enhancing the readiness of hospitals and other health care facilities to respond effectively to such emergencies.

''(c) REPORTS TO CONGRESS.—

''(1) IN GENERAL.—Not later than one year after the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, and biennially thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report concerning progress with respect to the plan under subsection (a), including progress toward achieving the goals specified in subsection (b).

''(2) ADDITIONAL AUTHORITY.—Reports submitted under paragraph (1) by the Secretary (other than the first report) shall make recommendations concerning—

''(A) any additional legislative authority that the Secretary determines is necessary for fully implementing the plan under subsection (a), including meeting the goals under subsection (b); and

''(B) any additional legislative authority that the Secretary determines is necessary under section 319 to protect the public health in the event of an emergency described in section 319(a).

''(d) RULE OF CONSTRUCTION.—This section may not be construed as expanding or limiting any of the authorities of the Secretary that, on the day before the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, were in effect with respect to preparing for and responding effectively to bioterrorism and other public health emergencies.''.

(b) OTHER REPORTS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services (referred to in this subsection as the ''Secretary'') shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report concerning—

(A) the recommendations and findings of the National Advisory Committee on Children and Terrorism under section 319F(c)(2) of the Public Health Service Act;

(B) the recommendations and findings of the EPIC Advisory Committee under section 319F(c)(3) of such Act;

(C) the characteristics that may render a rural community uniquely vulnerable to a biological attack, including distance, lack of emergency transport, hospital or laboratory capacity, lack of integration of Federal or State public health networks, workforce deficits, or other relevant characteristics;

(D) the characteristics that may render areas or populations designated as medically underserved populations (as defined in section 330 of such Act) uniquely vulnerable to a biological attack, including significant numbers of low-income or uninsured individuals, lack of affordable and accessible health care services, insufficient public and primary health care resources, lack of integration of Federal or State public health networks, workforce deficits, or other relevant characteristics;

(E) the recommendations of the Secretary with respect to additional legislative authority that the Secretary determines is necessary to effectively strengthen rural communities, or medically underserved populations (as defined in section 330 of such Act); and

(F) the need for and benefits of a National Disaster Response Medical Volunteer Service that would be a private-sector, community-based rapid response corps of medical volunteers.

(2) STUDY REGARDING LOCAL EMERGENCY RESPONSE METHODS.—The Secretary shall conduct a study of effective methods for the provision of emergency response services through local governments (including through private response contractors and volunteers of such governments) in a consistent manner in response to acts of bioterrorism or other public health emergencies. Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report describing the findings of the study.

SEC. 102. ASSISTANT SECRETARY FOR PUBLIC HEALTH EMERGENCY PREPAREDNESS; NATIONAL DISASTER MEDICAL SYSTEM.

(a) IN GENERAL.—Title XXVIII of the Public Health Service Act, as added by section 101 of this Act, is amended by adding at the end the following subtitle:

"Subtitle B—Emergency Preparedness and Response

"SEC. 2811. COORDINATION OF PREPAREDNESS FOR AND RESPONSE TO BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.

''(a) ASSISTANT SECRETARY FOR PUBLIC HEALTH EMERGENCY PREPAREDNESS.—

''(1) IN GENERAL.—There is established within the Department of Health and Human Services the position of Assistant Secretary for Public Health Emergency Preparedness. The President shall appoint an individual to serve in such position. Such Assistant Secretary shall report to the Secretary.

''(2) DUTIES.—Subject to the authority of the Secretary, the Assistant Secretary for Public Health Emergency Preparedness shall carry out the following duties with respect to bioterrorism and other public health emergencies:

''(A) Coordinate on behalf of the Secretary—

''(i) interagency interfaces between the Department of Health and Human Services (referred to in this paragraph as the 'Department') and other departments, agencies, and offices of the United States; and

''(ii) interfaces between the Department and State and local entities with responsibility for emergency preparedness.

''(B) Coordinate the operations of the National Disaster Medical System and any other emergency response activities within the Department of Health and Human Services that are related to bioterrorism and other public health emergencies.

''(C) Coordinate the efforts of the Department to bolster State and local emergency preparedness for a bioterrorist attack or other public health emergency, and evaluate the progress of such entities in meeting the benchmarks and other outcome measures contained in the national plan and in meeting the core public health capabilities established pursuant to 319A.

''(D) Any other duties determined appropriate by the Secretary.

''(b) NATIONAL DISASTER MEDICAL SYSTEM.—

''(1) IN GENERAL.—The Secretary shall provide for the operation in accordance with this section of a system to be known as the National Disaster Medical System. The Secretary shall designate the Assistant Secretary for Public Health

Emergency Preparedness as the head of the National Disaster Medical System, subject to the authority of the Secretary.

''(2) FEDERAL AND STATE COLLABORATIVE SYSTEM.—

''(A) IN GENERAL.—The National Disaster Medical System shall be a coordinated effort by the Federal agencies specified in subparagraph (B), working in collaboration with the States and other appropriate public or private entities, to carry out the purposes described in paragraph (3).

''(B) PARTICIPATING FEDERAL AGENCIES.—The Federal agencies referred to in subparagraph (A) are the Department of Health and Human Services, the Federal Emergency Management Agency, the Department of Defense, and the Department of Veterans Affairs.

''(3) PURPOSE OF SYSTEM.—

''(A) IN GENERAL.—The Secretary may activate the National Disaster Medical System to—

''(i) provide health services, health-related social services, other appropriate human services, and appropriate auxiliary services to respond to the needs of victims of a public health emergency (whether or not determined to be a public health emergency under section 319); or

''(ii) be present at locations, and for limited periods of time, specified by the Secretary on the basis that the Secretary has determined that a location is at risk of a public health emergency during the time specified.

''(B) ONGOING ACTIVITIES.—The National Disaster Medical System shall carry out such ongoing activities as may be necessary to prepare for the provision of services described in subparagraph (A) in the event that the Secretary activates the National Disaster Medical System for such purposes.

''(C) TEST FOR MOBILIZATION OF SYSTEM.—During the one-year period beginning on the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, the Secretary shall conduct an exercise to test the capability and timeliness of the National Disaster Medical System to mobilize and otherwise respond effectively to a bioterrorist attack or other public health emergency that affects two or more geographic locations concurrently. Thereafter, the Secretary may periodically conduct such exercises regarding the National Disaster Medical System as the Secretary determines to be appropriate.

''(c) CRITERIA.—

''(1) IN GENERAL.—The Secretary shall establish criteria for the operation of the National Disaster Medical System.

''(2) PARTICIPATION AGREEMENTS FOR NON-FEDERAL ENTITIES.—In carrying out paragraph (1), the Secretary shall establish criteria regarding the participation of States and private entities in the National Disaster Medical System, including criteria regarding agreements for such participation. The criteria shall include the following:

''(A) Provisions relating to the custody and use of Federal personal property by such entities, which may in the discretion of the Secretary include authorizing the custody and use of such property to respond to emergency situations for which the National Disaster Medical System has not been activated by the Secretary pursuant to subsection (b)(3)(A). Any such custody and use of Federal personal property shall be on a reimbursable basis.

''(B) Provisions relating to circumstances in which an individual or entity has agreements with both the National Disaster Medical System and another entity regarding the provision of emergency services by the individual. Such provisions shall address the issue of priorities among the agreements involved.

''(d) INTERMITTENT DISASTER-RESPONSE PERSONNEL.—

''(1) IN GENERAL.—For the purpose of assisting the National Disaster Medical System in carrying out duties under this section, the Secretary may appoint individuals to serve as intermittent personnel of such System in accordance with applicable civil service laws and regulations.

''(2) LIABILITY.—For purposes of section 224(a) and the remedies described in such section, an individual appointed under paragraph (1) shall, while acting within the scope of such appointment, be considered to be an employee of the Public Health Service performing medical, surgical, dental, or related functions. With respect to the participation of individuals appointed under paragraph (1) in training programs authorized by the Assistant Secretary for Public Health Emergency Preparedness or a comparable official of any Federal agency specified in subsection (b)(2)(B), acts of individuals so appointed that are within the scope of such participation shall be considered within the scope of the appointment under paragraph (1) (regardless of whether the individuals receive compensation for such participation).

''(e) CERTAIN EMPLOYMENT ISSUES REGARDING INTERMITTENT APPOINTMENTS.—

''(1) INTERMITTENT DISASTER-RESPONSE APPOINTEE.—For purposes of this subsection, the term 'intermittent disaster-response appointee' means an individual appointed by the Secretary under subsection (d).

''(2) COMPENSATION FOR WORK INJURIES.—An intermittent disaster-response appointee shall, while acting in the scope of such appointment, be considered to be an employee of the Public Health Service performing medical, surgical, dental, or related functions, and an injury sustained by such an individual shall be deemed 'in the performance of duty', for purposes of chapter 81 of title 5, United States Code, pertaining to compensation for work injuries. With respect to the participation of individuals appointed under subsection (d) in training programs authorized by the Assistant Secretary for Public Health Emergency Preparedness or a comparable official of any Federal agency specified in subsection (b)(2)(B), injuries sustained by such an individual, while acting within the scope of such participation, also shall be deemed 'in the performance of duty' for purposes of chapter 81 of title 5, United States Code (regardless of whether the individuals receive compensation for such participation). In the event of an injury to such an intermittent disaster-response appointee, the Secretary of Labor shall be responsible for making determinations as to whether the claimant is entitled to compensation or other benefits in accordance with chapter 81 of title 5, United States Code.

''(3) EMPLOYMENT AND REEMPLOYMENT RIGHTS.—

''(A) IN GENERAL.—Service as an intermittent disaster-response appointee when the Secretary activates the National Disaster Medical System or when the individual participates in a training program authorized by the Assistant Secretary for Public Health Emergency Preparedness or a comparable official of any Federal agency specified in subsection (b)(2)(B) shall be deemed 'service in the uniformed services' for purposes of chapter 43 of title 38, United States Code, pertaining to employment and reemployment rights of individuals who have performed service in the uniformed services (regardless of whether the individual receives compensation for such participation). All rights and obligations of such persons and procedures for assistance, enforcement, and investigation shall be as provided for in chapter 43 of title 38, United States Code.

''(B) NOTICE OF ABSENCE FROM POSITION OF EMPLOYMENT.—Preclusion of giving notice of service by necessity of Service as an intermittent disaster-response appointee when the Secretary activates the National Disaster Medical System shall be deemed preclusion by 'military necessity' for purposes of section 4312(b) of title 38, United States Code, pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Secretary, in consultation with the Secretary of Defense, and shall not be subject to judicial review.

''(4) LIMITATION.—An intermittent disaster-response appointee shall not be deemed an employee of the Department of Health and Human Services for purposes other than those specifically set forth in this section.

''(f) RULE OF CONSTRUCTION REGARDING USE OF COMMISSIONED CORPS.—If the Secretary assigns commissioned officers of the Regular or Reserve Corps to serve with the National Disaster Medical System, such assignments do not affect the terms and conditions of their appointments as commissioned officers of the Regular or Reserve Corps, respectively (including with respect to pay and allowances, retirement, benefits, rights, privileges, and immunities).

''(g) DEFINITION.—For purposes of this section, the term 'auxiliary services' includes mortuary services, veterinary services, and other services that are determined by the Secretary to be appropriate with respect to the needs referred to in subsection (b)(3)(A).

''(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of providing for the Assistant Secretary for Public Health Emergency Preparedness and the operations of the National Disaster Medical System, other than purposes for which amounts in the Public Health Emergency Fund under section 319 are available, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.''.

(b) SENSE OF CONGRESS REGARDING RESOURCES OF NATIONAL DISASTER MEDICAL SYSTEM.—It is the sense of the Congress that the Secretary of Health and Human Services should provide sufficient resources to entities tasked to carry out the duties of the National Disaster Medical System for reimbursement of expenses, operations, purchase and maintenance of equipment, training, and other funds expended in furtherance of the National Disaster Medical System.

SEC. 103. IMPROVING ABILITY OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

Section 319D of the Public Health Service Act (42 U.S.C. 247d–4) is amended to read as follows:

''SEC. 319D. REVITALIZING THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

''(a) FACILITIES; CAPACITIES.—

''(1) FINDINGS.—Congress finds that the Centers for Disease Control and Prevention has an essential role in defending against and combatting public health threats and requires secure and modern facilities, and expanded and improved capabilities related to bioterrorism and other public health emergencies, sufficient to enable such Centers to conduct this important mission.

''(2) FACILITIES.—

''(A) IN GENERAL.—The Director of the Centers for Disease Control and Prevention may design, construct, and equip new facilities, renovate existing facilities (including laboratories, laboratory support buildings, scientific communication facilities, transshipment complexes, secured and isolated parking structures, office buildings, and other facilities and infrastructure), and upgrade security of such facilities, in order to better conduct the capacities described in section 319A, and for supporting public health activities.

''(B) MULTIYEAR CONTRACTING AUTHORITY.—For any project of designing, constructing, equipping, or renovating any facility under subparagraph (A), the Director of the Centers for Disease Control and Prevention may enter into a single contract or related contracts that collectively include the full scope of the project, and the solicitation and contract shall contain the clause 'availability of funds' found at section 52.232–18 of title 48, Code of Federal Regulations.

''(3) IMPROVING THE CAPACITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.—The Secretary, taking into account evaluations under section 319B(a), shall expand, enhance,

and improve the capabilities of the Centers for Disease Control and Prevention relating to preparedness for and responding effectively to bioterrorism and other public health emergencies. Activities that may be carried out under the preceding sentence include—

''(A) expanding or enhancing the training of personnel;

''(B) improving communications facilities and networks, including delivery of necessary information to rural areas;

''(C) improving capabilities for public health surveillance and reporting activities, taking into account the integrated system or systems of public health alert communications and surveillance networks under subsection (b); and

''(D) improving laboratory facilities related to bioterrorism and other public health emergencies, including increasing the security of such facilities.

''(b) NATIONAL COMMUNICATIONS AND SURVEILLANCE NETWORKS.—

''(1) IN GENERAL.—The Secretary, directly or through awards of grants, contracts, or cooperative agreements, shall provide for the establishment of an integrated system or systems of public health alert communications and surveillance networks between and among—

''(A) Federal, State, and local public health officials;

''(B) public and private health-related laboratories, hospitals, and other health care facilities; and

''(C) any other entities determined appropriate by the Secretary.

''(2) REQUIREMENTS.—The Secretary shall ensure that networks under paragraph (1) allow for the timely sharing and discussion, in a secure manner, of essential information concerning bioterrorism or another public health emergency, or recommended methods for responding to such an attack or emergency.

''(3) STANDARDS.—Not later than one year after the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, the Secretary, in cooperation with health care providers and State and local public health officials, shall establish any additional technical and reporting standards (including standards for interoperability) for networks under paragraph (1).

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) FACILITIES; CAPACITIES.—

''(A) FACILITIES.—For the purpose of carrying out subsection (a)(2), there are authorized to be appropriated $300,000,000 for each of the fiscal years 2002 and 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006.

''(B) MISSION; IMPROVING CAPACITIES.—For the purposes of achieving the mission of the Centers for Disease Control and Prevention described in subsection (a)(1), for carrying out subsection (a)(3), for better conducting the capacities described in section 319A, and for supporting public health activities, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.

''(2) NATIONAL COMMUNICATIONS AND SURVEILLANCE NETWORKS.—For the purpose of carrying out subsection (b), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.''.

SEC. 104. ADVISORY COMMITTEES AND COMMUNICATIONS; STUDY REGARDING COMMUNICATIONS ABILITIES OF PUBLIC HEALTH AGENCIES.

(a) IN GENERAL.—Section 319F of the Public Health Service Act (42 U.S.C. 247d–6) is amended—

(1) by striking subsections (b) and (i);

(2) by redesignating subsections (c) through (h) as subsections (e) through (j), respectively; and

(3) by inserting after subsection (a) the following subsections:

''(b) ADVICE TO THE FEDERAL GOVERNMENT.—

''(1) REQUIRED ADVISORY COMMITTEES.—In coordination with the working group under subsection (a), the Secretary shall establish advisory committees in accordance with paragraphs (2) and (3) to provide expert recommendations to assist such working groups in carrying out their respective responsibilities under subsections (a) and (b).

''(2) NATIONAL ADVISORY COMMITTEE ON CHILDREN AND TERRORISM.—

''(A) IN GENERAL.—For purposes of paragraph (1), the Secretary shall establish an advisory committee to be known as the National Advisory Committee on Children and Terrorism (referred to in this paragraph as the 'Advisory Committee').

''(B) DUTIES.—The Advisory Committee shall provide recommendations regarding—

''(i) the preparedness of the health care (including mental health care) system to respond to bioterrorism as it relates to children;

''(ii) needed changes to the health care and emergency medical service systems and emergency medical services protocols to meet the special needs of children; and

''(iii) changes, if necessary, to the national stockpile under section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 to meet the emergency health security of children.

''(C) COMPOSITION.—The Advisory Committee shall be composed of such Federal officials as may be appropriate to address the special needs of the diverse population groups of children, and child health experts on infectious disease, environmental health, toxicology, and other relevant professional disciplines.

''(D) TERMINATION.—The Advisory Committee terminates one year after the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

''(3) EMERGENCY PUBLIC INFORMATION AND COMMUNICATIONS ADVISORY COMMITTEE.—

''(A) IN GENERAL.—For purposes of paragraph (1), the Secretary shall establish an advisory committee to be known as the Emergency Public Information and Communications Advisory Committee (referred to in this paragraph as the 'EPIC Advisory Committee').

''(B) DUTIES.—The EPIC Advisory Committee shall make recommendations to the Secretary and the working group under subsection (a) and report on appropriate ways to communicate public health information regarding bioterrorism and other public health emergencies to the public.

''(C) COMPOSITION.—The EPIC Advisory Committee shall be composed of individuals representing a diverse group of experts in public health, medicine, communications, behavioral psychology, and other areas determined appropriate by the Secretary.

''(D) DISSEMINATION.—The Secretary shall review the recommendations of the EPIC Advisory Committee and ensure that appropriate information is disseminated to the public.

''(E) TERMINATION.—The EPIC Advisory Committee terminates one year after the date of the enactment of Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

''(c) STRATEGY FOR COMMUNICATION OF INFORMATION REGARDING BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.—In coordination with working group under subsection (a), the Secretary shall develop a strategy for effectively communicating information regarding bioterrorism and other public health emergencies, and shall develop means by which to communicate such information. The Secretary may carry out the preceding sentence directly or through grants, contracts, or cooperative agreements.

''(d) RECOMMENDATION OF CONGRESS REGARDING OFFICIAL FEDERAL INTERNET SITE ON BIOTERRORISM.—It is the recommendation of Congress that there should be established an official Federal Internet site on bioterrorism, either directly or through provision of a grant to an entity that has expertise in bioterrorism and the development of websites, that should include information relevant to diverse populations (including messages directed at the general public and such relevant groups as medical personnel, public safety workers, and agricultural workers) and links to appropriate State and local government sites.''.

(b) STUDY REGARDING COMMUNICATIONS ABILITIES OF PUBLIC HEALTH AGENCIES.—The Secretary of Health and Human Services, in consultation with the Federal Communications Commission, the National Telecommunications and Information Administration, and other appropriate Federal agencies, shall conduct a study to determine whether local public health entities have the ability to maintain communications in the event of a bioterrorist attack or other public health emergency. The study shall examine whether redundancies are required in the telecommunications system, particularly with respect to mobile communications, for public health entities to maintain systems operability and connectivity during such emergencies. The study shall also include recommendations to industry and public health entities about how to implement such redundancies if necessary.

SEC. 105. EDUCATION OF HEALTH CARE PERSONNEL; TRAINING REGARDING PEDIATRIC ISSUES.

Section 319F(g) of the Public Health Service Act, as redesignated by section 104(a)(2) of this Act, is amended to read as follows:

''(g) EDUCATION; TRAINING REGARDING PEDIATRIC ISSUES.—

''(1) MATERIALS; CORE CURRICULUM.—The Secretary, in collaboration with members of the working group described in subsection (b), and professional organizations and societies, shall—

''(A) develop materials for teaching the elements of a core curriculum for the recognition and identification of potential bioweapons and other agents that may create a public health emergency, and for the care of victims of such emergencies, recognizing the special needs of children and other vulnerable populations, to public health officials, medical professionals, emergency physicians and other emergency department staff, laboratory personnel, and other personnel working in health care facilities (including poison control centers);

''(B) develop a core curriculum and materials for community-wide planning by State and local governments, hospitals and other health care facilities, emergency response units, and appropriate public and private sector entities to respond to a bioterrorist attack or other public health emergency;

''(C) develop materials for proficiency testing of laboratory and other public health personnel for the recognition and identification of potential bioweapons and other agents that may create a public health emergency; and

''(D) provide for dissemination and teaching of the materials described in subparagraphs (A) through (C) by appropriate means, which may include telemedicine, long-distance learning, or other such means.

''(2) CERTAIN ENTITIES.—The entities through which education and training activities described in paragraph (1) may be carried out include Public Health Preparedness Centers, the Public Health Service's Noble Training Center, the Emerging Infections Program, the Epidemic Intelligence Service, the Public Health Leadership Institute, multi-State, multi-institutional consortia, other appropriate educational entities, professional organizations and societies, private accrediting organizations, and other nonprofit institutions or entities meeting criteria established by the Secretary.

''(3) GRANTS AND CONTRACTS.—In carrying out paragraph (1), the Secretary may carry out activities directly and through the award of grants and contracts, and may enter into interagency cooperative agreements with other Federal agencies.

''(4) HEALTH-RELATED ASSISTANCE FOR EMERGENCY RESPONSE PERSONNEL TRAINING.—The Secretary, in consultation with the Attorney General and the Director of the Federal Emergency Management Agency, may provide technical assistance with respect to health-related aspects of emergency response personnel training carried out by the Department of Justice and the Federal Emergency Management Agency.''.

SEC. 106. GRANTS REGARDING SHORTAGES OF CERTAIN HEALTH PROFESSIONALS.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 319G the following section:

''SEC. 319H. GRANTS REGARDING TRAINING AND EDUCATION OF CERTAIN HEALTH PROFESSIONALS.

''(a) IN GENERAL.—The Secretary may make awards of grants and cooperative agreements to appropriate public and nonprofit private health or educational entities, including health professions schools and programs as defined in section 799B, for the purpose of providing low-interest loans, partial scholarships, partial fellowships, revolving loan funds, or other cost-sharing forms of assistance for the education and training of individuals in any category of health professions for which there is a shortage that the Secretary determines should be alleviated in order to prepare for or respond effectively to bioterrorism and other public health emergencies.

''(b) AUTHORITY REGARDING NON-FEDERAL CONTRIBUTIONS.—The Secretary may require as a condition of an award under subsection (a) that a grantee under such subsection provide non-Federal contributions toward the purpose described in such subsection.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.''.

SEC. 107. EMERGENCY SYSTEM FOR ADVANCE REGISTRATION OF HEALTH PROFESSIONS VOLUNTEERS.

Part B of title III of the Public Health Service Act, as amended by section 106 of this Act, is amended by inserting after section 319H the following section:

''SEC. 319I. EMERGENCY SYSTEM FOR ADVANCE REGISTRATION OF HEALTH PROFESSIONS VOLUNTEERS.

''(a) IN GENERAL.—The Secretary shall, directly or through an award of a grant, contract, or cooperative agreement, establish and maintain a system for the advance registration of health professionals for the purpose of verifying the credentials, licenses, accreditations, and hospital privileges of such professionals when, during public health emergencies, the professionals volunteer to provide health services (referred to in this section as the 'verification system'). In carrying out the preceding sentence, the Secretary shall provide for an electronic database for the verification system.

''(b) CERTAIN CRITERIA.—The Secretary shall establish provisions regarding the promptness and efficiency of the system in collecting, storing, updating, and disseminating information on the credentials, licenses, accreditations, and hospital privileges of volunteers described in subsection (a).

''(c) OTHER ASSISTANCE.—The Secretary may make grants and provide technical assistance to States and other public or nonprofit private entities for activities relating to the verification system developed under subsection (a).

''(d) COORDINATION AMONG STATES.—The Secretary may encourage each State to provide legal authority during a public health emergency for health professionals authorized in another State to provide certain health services to provide such health services in the State.

''(e) RULE OF CONSTRUCTION.—This section may not be construed as authorizing the Secretary to issue requirements regarding the provision by the States of credentials, licenses, accreditations, or hospital privileges.

''(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006.''.

SEC. 108. WORKING GROUP.

Section 319F of the Public Health Service Act, as amended by section 104(a), is amended by striking subsection (a) and inserting the following:

''(a) WORKING GROUP ON BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.—

''(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Agriculture, the Attorney General, the Director of Central Intelligence, the Secretary of Defense, the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Director of the Federal Emergency Management Agency, the Secretary of Labor, the Secretary of Veterans Affairs, and with other similar Federal officials as determined appropriate, shall establish a working group on the prevention, preparedness, and response to bioterrorism and other public health emergencies. Such joint working group, or subcommittees thereof, shall meet periodically for the purpose of consultation on, assisting in, and making recommendations on—

''(A) responding to a bioterrorist attack, including the provision of appropriate safety and health training and protective measures for medical, emergency service, and other personnel responding to such attacks;

''(B) prioritizing countermeasures required to treat, prevent, or identify exposure to a biological agent or toxin pursuant to section 351A;

''(C) facilitation of the awarding of grants, contracts, or cooperative agreements for the development, manufacture, distribution, supply-chain management, and purchase of priority countermeasures;

''(D) research on pathogens likely to be used in a biological threat or attack on the civilian population;

''(E) development of shared standards for equipment to detect and to protect against biological agents and toxins;

''(F) assessment of the priorities for and enhancement of the preparedness of public health institutions, providers of medical care, and other emergency service personnel (including firefighters) to detect, diagnose, and respond (including mental health response) to a biological threat or attack;

''(G) in the recognition that medical and public health professionals are likely to provide much of the first response to such an attack, development and enhancement of the quality of joint planning and training programs that address the public health and medical consequences of a biological threat or attack on the civilian population between—

''(i) local firefighters, ambulance personnel, police and public security officers, or other emergency response personnel; and

''(ii) hospitals, primary care facilities, and public health agencies;

''(H) development of strategies for Federal, State, and local agencies to communicate information to the public regarding biological threats or attacks;

''(I) ensuring that the activities under this subsection address the health security needs of children and other vulnerable populations;

''(J) strategies for decontaminating facilities contaminated as a result of a biological attack, including appropriate protections for the safety of workers conducting such activities;

''(K) subject to compliance with other provisions of Federal law, clarifying the responsibilities among Federal officials for the investigation of suspicious outbreaks of disease and other potential public health emergencies, and for related revisions of the interagency plan known as the Federal response plan; and

''(L) in consultation with the National Highway Traffic Safety Administration and the U.S. Fire Administration, ways to enhance coordination among Federal agencies involved with State, local, and community based emergency medical services, including issuing a report that—

''(i) identifies needs of community-based emergency medical services; and

''(ii) identifies ways to streamline and enhance the process through which Federal agencies support community-based emergency medical services.

''(2) CONSULTATION WITH EXPERTS.—In carrying out subparagraphs (B) and (C) of paragraph (1), the working group under such paragraph shall consult with the pharmaceutical, biotechnology, and medical device industries, and other appropriate experts.

''(3) USE OF SUBCOMMITTEES REGARDING CONSULTATION REQUIREMENTS.—With respect to a requirement under law that the working group under paragraph (1) be consulted on a matter, the working group may designate an appropriate subcommittee of the working group to engage in the consultation.

''(4) DISCRETION IN EXERCISE OF DUTIES.—Determinations made by the working group under paragraph (1) with respect to carrying out duties under such paragraph are matters committed to agency discretion for purposes of section 701(a) of title 5, Unites States Code.

''(5) RULE OF CONSTRUCTION.—This subsection may not be construed as establishing new regulatory authority for any of the officials specified in paragraph (1), or as having any legal effect on any other provision of law, including the responsibilities and authorities of the Environmental Protection Agency.''.

SEC. 109. ANTIMICROBIAL RESISTANCE.

Section 319E of the Public Health Service Act (42 U.S.C. 247d–5) is amended—

(1) in subsection (b)—

(A) by striking ''shall conduct and support'' and inserting ''shall directly or through awards of grants or cooperative agreements to public or private entities provide for the conduct of''; and

(B) by amending paragraph (4) to read as follows:

''(4) the sequencing of the genomes, or other DNA analysis, or other comparative analysis, of priority pathogens (as determined by the Director of the National Institutes of Health in consultation with the task force established under subsection (a)), in collaboration and coordination with the activities of the Department of Defense and the Joint Genome Institute of the Department of Energy; and'';

(2) in subsection (e)(2), by inserting after ''societies,'' the following: ''schools or programs that train medical laboratory personnel,''; and

(3) in subsection (g), by striking ''and such sums'' and all that follows and inserting the following: ''$25,000,000 for each of the fiscal years 2002 and 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006.''.

SEC. 110. SUPPLIES AND SERVICES IN LIEU OF AWARD FUNDS.

Part B of title III of the Public Health Service Act, as amended by section 107 of this Act, is amended by inserting after section 319I the following section:

''SEC. 319J. SUPPLIES AND SERVICES IN LIEU OF AWARD FUNDS

''(a) IN GENERAL.—Upon the request of a recipient of an award under any of sections 319 through 319I or section 319K, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the recipient in carrying out the purposes for which the award is made and, for such purposes, may detail to the recipient any officer or employee of the Department of Health and Human Services.

''(b) CORRESPONDING REDUCTION IN PAYMENTS.—With respect to a request described in

subsection (a), the Secretary shall reduce the amount of payments under the award involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.''.

SEC. 111. ADDITIONAL AMENDMENTS.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq) is amended—

(1) in section 319A(a)(1), by striking ''10 years'' and inserting ''five years'';

(2) in section 319B(a), in the first sentence, by striking ''10 years'' and inserting ''five years''; and

(3) in section 391F(e)(2), as redesignated by section 104(a)(2) of this Act—

(A) by striking ''or'' after ''clinic,''; and

(B) by inserting before the period following: '', professional organization or society, school or program that trains medical laboratory personnel, private accrediting organization, or other nonprofit private institution or entity meeting criteria established by the Secretary''.

Subtitle B—Strategic National Stockpile; Development of Priority Countermeasures

SEC. 121. STRATEGIC NATIONAL STOCKPILE.

(a) STRATEGIC NATIONAL STOCKPILE.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), in coordination with the Secretary of Veterans Affairs, shall maintain a stockpile or stockpiles of drugs, vaccines and other biological products, medical devices, and other supplies in such numbers, types, and amounts as are determined by the Secretary to be appropriate and practicable, taking into account other available sources, to provide for the emergency health security of the United States, including the emergency health security of children and other vulnerable populations, in the event of a bioterrorist attack or other public health emergency.

(2) PROCEDURES.—The Secretary, in managing the stockpile under paragraph (1), shall—

(A) consult with the working group under section 319F(a) of the Public Health Service Act;

(B) ensure that adequate procedures are followed with respect to such stockpile for inventory management and accounting, and for the physical security of the stockpile;

(C) in consultation with Federal, State, and local officials, take into consideration the timing and location of special events;

(D) review and revise, as appropriate, the contents of the stockpile on a regular basis to ensure that emerging threats, advanced technologies, and new countermeasures are adequately considered;

(E) devise plans for the effective and timely supply-chain management of the stockpile, in consultation with appropriate Federal, State and local agencies, and the public and private health care infrastructure; and

(F) ensure the adequate physical security of the stockpile.

(b) SMALLPOX VACCINE DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall award contracts, enter into cooperative agreements, or carry out such other activities as may reasonably be required in order to ensure that the stockpile under subsection (a) includes an amount of vaccine against smallpox as determined by the Secretary to be sufficient to meet the health security needs of the United States.

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the private distribution, purchase, or sale of vaccines from sources other than the stockpile described in subsection (a).

(c) DISCLOSURES.—No Federal agency shall disclose under section 552, United States Code, any information identifying the location at which materials in the stockpile under subsection (a) are stored.

(d) DEFINITION.—For purposes of subsection (a), the term ''stockpile'' includes—

(1) a physical accumulation (at one or more locations) of the supplies described in subsection (a); or

(2) a contractual agreement between the Secretary and a vendor or vendors under which such vendor or vendors agree to provide to the Secretary supplies described in subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) STRATEGIC NATIONAL STOCKPILE.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $640,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

(2) SMALLPOX VACCINE DEVELOPMENT.—For the purpose of carrying out subsection (b), there are authorized to be appropriated $509,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

SEC. 122. ACCELERATED APPROVAL OF PRIORITY COUNTERMEASURES.

(a) IN GENERAL.—The Secretary of Health and Human Services may designate a priority countermeasure as a fast-track product pursuant to section 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356) or as a device granted review priority pursuant to section 515(d)(5) of such Act (21 U.S.C. 360e(d)(5)). Such a designation may be made prior to the submission of—

(1) a request for designation by the sponsor or applicant; or

(2) an application for the investigation of the drug under section 505(i) of such Act or section 351(a)(3) of the Public Health Service Act.

Nothing in this subsection shall be construed to prohibit a sponsor or applicant from declining such a designation.

(b) USE OF ANIMAL TRIALS.—A drug for which approval is sought under section 505(b) of the Federal Food, Drug, and Cosmetic Act or section 351 of the Public Health Service Act on the basis of evidence of effectiveness that is derived from animal studies pursuant to section 123 may be designated as a fast track product for purposes of this section.

(c) PRIORITY REVIEW OF DRUGS AND BIOLOGICAL PRODUCTS.—A priority countermeasure that is a drug or biological product shall be considered a priority drug or biological product for purposes of performance goals for priority drugs or biological products agreed to by the Commissioner of Food and Drugs.

(d) DEFINITIONS.—For purposes of this title:

(1) The term ''priority countermeasure'' has the meaning given such term in section 319F(h)(4) of the Public Health Service Act.

(2) The term ''priority drugs or biological products'' means a drug or biological product that is the subject of a drug or biologics application referred to in section 101(4) of the Food and Drug Administration Modernization Act of 1997.

SEC. 123. ISSUANCE OF RULE ON ANIMAL TRIALS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall complete the process of rulemaking that was commenced under authority of section 505 of the Federal Food, Drug, and Cosmetic Act and section 351 of the Public Health Service Act with the issuance of the proposed rule entitled ''New Drug and Biological Drug Products; Evidence Needed to Demonstrate Efficacy of New Drugs for Use Against Lethal or Permanently Disabling Toxic Substances When Efficacy Studies in Humans Ethically Cannot be Conducted'' published in the Federal Register on October 5, 1999 (64 Fed. Reg. 53960), and shall promulgate a final rule.

SEC. 124. SECURITY FOR COUNTERMEASURE DEVELOPMENT AND PRODUCTION.

Part B of title III of the Public Health Service Act, as amended by section 110 of this Act, is amended by inserting after section 319J the following section:

''SEC. 319K. SECURITY FOR COUNTERMEASURE DEVELOPMENT AND PRODUCTION.

''(a) IN GENERAL.—The Secretary, in consultation with the Attorney General and the Secretary of Defense, may provide technical or other assistance to provide security to persons or facilities that conduct development, production, distribution, or storage of priority countermeasures (as defined in section 319F(h)(4)).

''(b) GUIDELINES.—The Secretary may develop guidelines to enable entities eligible to receive assistance under subsection (a) to secure their facilities against potential terrorist attack.''.

SEC. 125. ACCELERATED COUNTERMEASURE RESEARCH AND DEVELOPMENT.

Section 319F(h) of the Public Health Service Act, as redesignated by section 104(a)(2) of this Act, is amended to read as follows:

''(h) ACCELERATED RESEARCH AND DEVELOPMENT ON PRIORITY PATHOGENS AND COUNTERMEASURES.—

''(1) IN GENERAL.—With respect to pathogens of potential use in a bioterrorist attack, and other agents that may cause a public health emergency, the Secretary, taking into consideration any recommendations of the working group under subsection (a), shall conduct, and award grants, contracts, or cooperative agreements for, research, investigations, experiments, demonstrations, and studies in the health sciences relating to—

''(A) the epidemiology and pathogenesis of such pathogens;

''(B) the sequencing of the genomes, or other DNA analysis, or other comparative analysis, of priority pathogens (as determined by the Director of the National Institutes of Health in consultation with the working group established in subsection (a)), in collaboration and coordination with the activities of the Department of Defense and the Joint Genome Institute of the Department of Energy;

''(C) the development of priority countermeasures; and

''(D) other relevant areas of research;

with consideration given to the needs of children and other vulnerable populations.

''(2) PRIORITY.—The Secretary shall give priority under this section to the funding of research and other studies related to priority countermeasures.

''(3) ROLE OF DEPARTMENT OF VETERANS AFFAIRS.—In carrying out paragraph (1), the Secretary shall consider using the biomedical research and development capabilities of the Department of Veterans Affairs, in conjunction with that Department's affiliations with health-professions universities. When advantageous to the Government in furtherance of the purposes of such paragraph, the Secretary may enter into cooperative agreements with the Secretary of Veterans Affairs to achieve such purposes.

''(4) PRIORITY COUNTERMEASURES.—For purposes of this section, the term 'priority countermeasure' means a drug, biological product, device, vaccine, vaccine adjuvant, antiviral, or diagnostic test that the Secretary determines to be—

''(A) a priority to treat, identify, or prevent infection by a biological agent or toxin listed pursuant to section 351A(a)(1), or harm from any other agent that may cause a public health emergency; or

''(B) a priority to diagnose conditions that may result in adverse health consequences or death and may be caused by the administering of a drug, biological product, device, vaccine, vaccine adjuvant, antiviral, or diagnostic test that is a priority under subparagraph (A).''.

SEC. 126. EVALUATION OF NEW AND EMERGING TECHNOLOGIES REGARDING BIOTERRORIST ATTACK AND OTHER PUBLIC HEALTH EMERGENCIES.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall promptly carry out a program to periodically evaluate new and emerging technologies that, in the determination of the Secretary, are designed to improve or enhance the ability of public health or safety officials to conduct public health surveillance activities relating to a bioterrorist attack or other public health emergency.

(b) CERTAIN ACTIVITIES.—In carrying out this subsection, the Secretary shall, to the extent practicable—

(1) survey existing technology programs funded by the Federal Government for potentially useful technologies;

(2) promptly issue a request, as necessary, for information from non-Federal public and private entities for ongoing activities in this area; and

(3) evaluate technologies identified under paragraphs (1) and (2) pursuant to subsection (c).

(c) CONSULTATION AND EVALUATION.—In carrying out subsection (b)(3), the Secretary shall consult with the working group under section 319F(a) of the Public Health Service Act, as well as other appropriate public, nonprofit, and private entities, to develop criteria for the evaluation of such technologies and to conduct such evaluations.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, and periodically thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on the activities under this section.

SEC. 127. POTASSIUM IODIDE.

(a) IN GENERAL.—Through the national stockpile under section 121, the President, subject to subsections (b) and (c), shall make available to State and local governments potassium iodide tablets for stockpiling and for distribution as appropriate to public facilities, such as schools and hospitals, in quantities sufficient to provide adequate protection for the population within 20 miles of a nuclear power plant.

(b) STATE AND LOCAL PLANS.—

(1) IN GENERAL.—Subsection (a) applies with respect to a State or local government, subject to paragraph (2), if the government involved meets the following conditions:

(A) Such government submits to the President a plan for the stockpiling of potassium iodide tablets, and for the distribution and utilization of potassium iodide tablets in the event of a nuclear incident.

(B) The plan is accompanied by certifications by such government that the government has not already received sufficient quantities of potassium iodide tablets from the Federal Government.

(2) LOCAL GOVERNMENTS.—Subsection (a) applies with respect to a local government only if, in addition to the conditions described in paragraph (1), the following conditions are met:

(A) The State in which the locality involved is located—

(i) does not have a plan described in paragraph (1)(A); or

(ii) has a plan described in such paragraph, but the plan does not address populations at a distance greater than 10 miles from the nuclear power plant involved.

(B) The local government has petitioned the State to modify the State plan to address such populations, not exceeding 20 miles from such plant, and 60 days have elapsed without the State modifying the State plan to address populations at the full distance sought by the local government through the petition.

(C) The local government has submitted its local plan under paragraph (1)(A) to the State, and the State has approved the plan and certified that the plan is not inconsistent with the State emergency plan.

(c) GUIDELINES.—Not later than one year after the date of the enactment of this Act, the President, in consultation with individuals representing appropriate Federal, State, and local agencies, shall establish guidelines for the stockpiling of potassium iodide tablets, and for the distribution and utilization of potassium iodide tablets in the event of a nuclear incident. Such tablets may not be made available under subsection (a) until such guidelines have been established.

(d) INFORMATION.—The President shall carry out activities to inform State and local governments of the program under this section.

(e) REPORTS.—

(1) PRESIDENT.—Not later than six months after the date on which the guidelines under subsection (c) are issued, the President shall submit to the Congress a report—

(A) on whether potassium iodide tablets have been made available under subsection (a) or other Federal, State, or local programs, and the extent to which State and local governments have established stockpiles of such tablets; and

(B) the measures taken by the President to implement this section.

(2) NATIONAL ACADEMY OF SCIENCES.—

(A) IN GENERAL.—The President shall request the National Academy of Sciences to enter into an agreement with the President under which the Academy conducts a study to determine what is the most effective and safe way to distribute and administer potassium iodide tablets on a mass scale. If the Academy declines to conduct the study, the President shall enter into an agreement with another appropriate public or nonprofit private entity to conduct the study.

(B) REPORT.—The President shall ensure that, not later than six months after the date of the enactment of this Act, the study required in subparagraph (A) is completed and a report describing the findings made in the study is submitted to the Congress.

(f) APPLICABILITY.—Subsections (a) and (d) cease to apply as requirements if the President determines that there is an alternative and more effective prophylaxis or preventive measures for adverse thyroid conditions that may result from the release of radionuclides from nuclear power plants.

Subtitle C—Improving State, Local, and Hospital Preparedness for and Response to Bioterrorism and Other Public Health Emergencies

SEC. 131. GRANTS TO IMPROVE STATE, LOCAL, AND HOSPITAL PREPAREDNESS FOR AND RESPONSE TO BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.

(a) IN GENERAL.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 319C the following sections:

"SEC. 319C–1. GRANTS TO IMPROVE STATE, LOCAL, AND HOSPITAL PREPAREDNESS FOR AND RESPONSE TO BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.

''(a) IN GENERAL.—To enhance the security of the United States with respect to bioterrorism and other public health emergencies, the Secretary shall make awards of grants or cooperative agreements to eligible entities to enable such entities to conduct the activities described in subsection (d).

''(b) ELIGIBLE ENTITIES.—

''(1) IN GENERAL.—To be eligible to receive an award under subsection (a), an entity shall—

''(A)(i) be a State; and

''(ii) prepare and submit to the Secretary an application at such time, and in such manner, and containing such information as the Secretary may require, including an assurance that the State—

''(I) has completed an evaluation under section 319B(a), or an evaluation that is substantially equivalent to an evaluation described in such section (as determined by the Secretary);

''(II) has prepared, or will (within 60 days of receiving an award under this section) prepare, a Bioterrorism and Other Public Health Emergency Preparedness and Response Plan in accordance with subsection (c);

''(III) has established a means by which to obtain public comment and input on the plan prepared under subclause (II), and on the implementation of such plan, that shall include an advisory committee or other similar mechanism for obtaining comment from the public at large as well as from other State and local stakeholders;

''(IV) will use amounts received under the award in accordance with the plan prepared under subclause (II), including making expenditures to carry out the strategy contained in the plan; and

''(V) with respect to the plan prepared under subclause (II), will establish reasonable criteria to evaluate the effective performance of entities that receive funds under the award and include relevant benchmarks in the plan; or

''(B)(i) be a political subdivision of a State or a consortium of 2 or more such subdivisions; and

''(ii) prepare and submit to the Secretary an application at such time, and in such manner, and containing such information as the Secretary may require.

''(2) COORDINATION WITH STATEWIDE PLANS.—An award under subsection (a) to an eligible entity described in paragraph (1)(B) may not be made unless the application of such entity is in coordination with, and consistent with, applicable Statewide plans described in subsection (d)(1).

''(c) BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCY PREPAREDNESS AND RESPONSE PLAN.—Not later than 60 days after receiving amounts under an award under subsection (a), an eligible entity described in subsection (b)(1)(A) shall prepare and submit to the Secretary a Bioterrorism and Other Public Health Emergency Preparedness and Response Plan. Recognizing the assessment of public health needs conducted under section 319B, such plan shall include a description of activities to be carried out by the entity to address the needs identified in such assessment (or an equivalent assessment).

''(d) USE OF FUNDS.—An award under subsection (a) may be expended for activities that may include the following and similar activities:

''(1) To develop Statewide plans (including the development of the Bioterrorism and Other Public Health Emergency Preparedness and Response Plan required under subsection (c)), and community-wide plans for responding to bioterrorism and other public health emergencies that are coordinated with the capacities of applicable national, State, and local health agencies and health care providers, including poison control centers.

''(2) To address deficiencies identified in the assessment conducted under section 319B.

''(3) To purchase or upgrade equipment (including stationary or mobile communications equipment), supplies, pharmaceuticals or other priority countermeasures to enhance preparedness for and response to bioterrorism or other public health emergencies, consistent with the plan described in subsection (c).

''(4) To conduct exercises to test the capability and timeliness of public health emergency response activities.

''(5) To develop and implement the trauma care and burn center care components of the State plans for the provision of emergency medical services.

''(6) To improve training or workforce development to enhance public health laboratories.

''(7) To train public health and health care personnel to enhance the ability of such personnel—

''(A) to detect, provide accurate identification of, and recognize the symptoms and epidemiological characteristics of exposure to a biological agent that may cause a public health emergency; and

''(B) to provide treatment to individuals who are exposed to such an agent.

''(8) To develop, enhance, coordinate, or improve participation in systems by which disease detection and information about biological attacks and other public health emergencies can be rapidly communicated among national, State, and local health agencies, emergency response

personnel, and health care providers and facilities to detect and respond to a bioterrorist attack or other public health emergency, including activities to improve information technology and communications equipment available to health care and public health officials for use in responding to a biological threat or attack or other public health emergency.

''(9) To enhance communication to the public of information on bioterrorism and other public health emergencies, including through the use of 2-1-1 call centers.

''(10) To address the health security needs of children and other vulnerable populations with respect to bioterrorism and other public health emergencies.

''(11) To provide training and develop, enhance, coordinate, or improve methods to enhance the safety of workers and workplaces in the event of bioterrorism.

''(12) To prepare and plan for contamination prevention efforts related to public health that may be implemented in the event of a bioterrorist attack, including training and planning to protect the health and safety of workers conducting the activities described in this paragraph.

''(13) To prepare a plan for triage and transport management in the event of bioterrorism or other public health emergencies.

''(14) To enhance the training of health care professionals to recognize and treat the mental health consequences of bioterrorism or other public health emergencies.

''(15) To enhance the training of health care professionals to assist in providing appropriate health care for large numbers of individuals exposed to a bioweapon.

''(16) To enhance training and planning to protect the health and safety of personnel, including health care professionals, involved in responding to a biological attack.

''(17) To improve surveillance, detection, and response activities to prepare for emergency response activities including biological threats or attacks, including training personnel in these and other necessary functions and including early warning and surveillance networks that use advanced information technology to provide early detection of biological threats or attacks.

''(18) To develop, enhance, and coordinate or improve the ability of existing telemedicine programs to provide health care information and advice as part of the emergency public health response to bioterrorism or other public health emergencies.

Nothing in this subsection may be construed as establishing new regulatory authority or as modifying any existing regulatory authority.

''(e) PRIORITIES IN USE OF GRANTS.—

''(1) IN GENERAL.—

''(A) PRIORITIES.—Except as provided in subparagraph (B), the Secretary shall, in carrying out the activities described in this section, address the following hazards in the following priority:

''(i) Bioterrorism or acute outbreaks of infectious diseases.

''(ii) Other public health threats and emergencies.

''(B) DETERMINATION OF THE SECRETARY.—In the case of the hazard involved, the degree of priority that would apply to the hazard based on the categories specified in clauses (i) and (ii) of subparagraph (A) may be modified by the Secretary if the following conditions are met:

''(i) The Secretary determines that the modification is appropriate on the basis of the following factors:

''(I) The extent to which eligible entities are adequately prepared for responding to hazards within the category specified in clause (i) of subparagraph (A).

''(II) There has been a significant change in the assessment of risks to the public health posed by hazards within the category specified in clause (ii) of such subparagraph.

''(ii) Prior to modifying the priority, the Secretary notifies the appropriate committees of the Congress of the determination of the Secretary under clause (i) of this subparagraph.

''(2) AREAS OF EMPHASIS WITHIN CATEGORIES.—The Secretary shall determine areas of emphasis within the category of hazards specified in clause (i) of paragraph (1)(A), and shall determine areas of emphasis within the category of hazards specified in clause (ii) of such paragraph, based on an assessment of the risk and likely consequences of such hazards and on an evaluation of Federal, State, and local needs, and may also take into account the extent to which receiving an award under subsection (a) will develop capacities that can be used for public health emergencies of varying types.

''(f) CERTAIN ACTIVITIES.—In administering activities under section 319C(c)(4) or similar activities, the Secretary shall, where appropriate, give priority to activities that include State or local government financial commitments, that seek to incorporate multiple public health and safety services or diagnostic databases into an integrated public health entity, and that cover geographic areas lacking advanced diagnostic and laboratory capabilities.

''(g) COORDINATION WITH LOCAL MEDICAL RESPONSE SYSTEM.—An eligible entity and local Metropolitan Medical Response Systems shall, to the extent practicable, ensure that activities carried out under an award under subsection (a) are coordinated with activities that are carried out by local Metropolitan Medical Response Systems.

''(h) COORDINATION OF FEDERAL ACTIVITIES.—In making awards under subsection (a), the Secretary shall—

''(1) annually notify the Director of the Federal Emergency Management Agency, the Director of the Office of Justice Programs, and the Director of the National Domestic Preparedness Office, as to the amount, activities covered under, and status of such awards; and

''(2) coordinate such awards with other activities conducted or supported by the Secretary to enhance preparedness for bioterrorism and other public health emergencies.

''(i) DEFINITION.—For purposes of this section, the term 'eligible entity' means an entity that meets the conditions described in subparagraph (A) or (B) of subsection (b)(1).

''(j) FUNDING.—

''(1) AUTHORIZATIONS OF APPROPRIATIONS.—

''(A) FISCAL YEAR 2003.—

''(i) AUTHORIZATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $1,600,000,000 for fiscal year 2003, of which—

''(I) $1,080,000,000 is authorized to be appropriated for awards pursuant to paragraph (3) (subject to the authority of the Secretary to make awards pursuant to paragraphs (4) and (5)); and

''(II) $520,000,000 is authorized to be appropriated—

''(aa) for awards under subsection (a) to States, notwitstanding the eligibility conditions under subsection (b), for the purpose of enhancing the preparedness of hospitals (including children's hospitals), clinics, health centers, and primary care facilities for bioterrorism and other public health emergencies; and

''(bb) for Federal, State, and local planning and administrative activities related to such purpose.

''(ii) CONTINGENT ADDITIONAL AUTHORIZATION.—If a significant change in circumstances warrants an increase in the amount authorized to be appropriated under clause (i) for fiscal year 2003, there are authorized to be appropriated such sums as may be necessary for such year for carrying out this section, in addition to the amount authorized in clause (i).

''(B) OTHER FISCAL YEARS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006.

''(2) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated under paragraph (1) shall be used to supplement and not supplant other State and local public funds provided for activities under this section.

''(3) STATE BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCY PREPAREDNESS AND RESPONSE BLOCK GRANT FOR FISCAL YEAR 2003.—

''(A) IN GENERAL.—For fiscal year 2003, the Secretary shall, in an amount determined in accordance with subparagraphs (B) through (D), make an award under subsection (a) to each State, notwithstanding the eligibility conditions described in subsection (b), that submits to the Secretary an application for the award that meets the criteria of the Secretary for the receipt of such an award and that meets other implementation conditions established by the Secretary for such awards. No other awards may be made under subsection (a) for such fiscal year, except as provided in paragraph (1)(A)(i)(II) and paragraphs (4) and (5).

''(B) BASE AMOUNT.—In determining the amount of an award pursuant to subparagraph (A) for a State, the Secretary shall first determine an amount the Secretary considers appropriate for the State (referred to in this paragraph as the 'base amount'), except that such amount may not be greater than the minimum amount determined under subparagraph (D).

''(C) INCREASE ON BASIS OF POPULATION.—After determining the base amount for a State under subparagraph (B), the Secretary shall increase the base amount by an amount equal to the product of—

''(i) the amount appropriated under paragraph (1)(A)(i)(I) for the fiscal year, less an amount equal to the sum of all base amounts determined for the States under subparagraph (B), and less the amount, if any, reserved by the Secretary under paragraphs (4) and (5); and

''(ii) subject to paragraph (4)(C), the percentage constituted by the ratio of an amount equal to the population of the State over an amount equal to the total population of the States (as indicated by the most recent data collected by the Bureau of the Census).

''(D) MINIMUM AMOUNT.—Subject to the amount appropriated under paragraph (1)(A)(i)(I), an award pursuant to subparagraph (A) for a State shall be the greater of the base amount as increased under subparagraph (C), or the minimum amount under this subparagraph. The minimum amount under this subparagraph is—

''(i) in the case of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, an amount equal to the lesser of—

''(I) $5,000,000; or

''(II) if the amount appropriated under paragraph (1)(A)(i)(I) is less than $667,000,000, an amount equal to 0.75 percent of the amount appropriated under such paragraph, less the amount, if any, reserved by the Secretary under paragraphs (4) and (5); or

''(ii) in the case of each of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands, an amount determined by the Secretary to be appropriate, except that such amount may not exceed the amount determined under clause (i).

''(4) CERTAIN POLITICAL SUBDIVISIONS.—

''(A) IN GENERAL.—For fiscal year 2003, the Secretary may, before making awards pursuant to paragraph (3) for such year, reserve from the amount appropriated under paragraph (1)(A)(i)(I) for the year an amount determined necessary by the Secretary to make awards under subsection (a) to political subdivisions that have a substantial number of residents, have a substantial local infrastructure for responding to public health emergencies, and face a high degree of risk from bioterrorist attacks or other public health emergencies. Not more than three political subdivisions may receive awards pursuant to this subparagraph.

''(B) COORDINATION WITH STATEWIDE PLANS.—An award pursuant to subparagraph (A) may not be made unless the application of the political subdivision involved is in coordination with, and consistent with, applicable Statewide plans described in subsection (c)(1).

''(C) RELATIONSHIP TO FORMULA GRANTS.—In the case of a State that will receive an award pursuant to paragraph (3), and in which there is located a political subdivision that will receive an award pursuant to subparagraph (A), the Secretary shall, in determining the amount under paragraph (3)(B) for the State, subtract from the population of the State an amount equal to the population of such political subdivision.

''(D) CONTINUITY OF FUNDING.—In determining whether to make an award pursuant to subparagraph (A) to a political subdivision, the Secretary may consider, as a factor indicating that the award should be made, that the political subdivision received public health funding from the Secretary for fiscal year 2002.

''(5) SIGNIFICANT UNMET NEEDS; DEGREE OF RISK.—

''(A) IN GENERAL.—For fiscal year 2003, the Secretary may, before making awards pursuant to paragraph (3) for such year, reserve from the amount appropriated under paragraph (1)(A)(i)(I) for the year an amount determined necessary by the Secretary to make awards under subsection (a) to eligible entities that—

''(i) have a significant need for funds to build capacity to identify, detect, monitor, and respond to a bioterrorist or other threat to the public health, which need will not be met by awards pursuant to paragraph (3); and

''(ii) face a particularly high degree of risk of such a threat.

''(B) RECIPIENTS OF GRANTS.—Awards pursuant to subparagraph (A) may be supplemental awards to States that receive awards pursuant to paragraph (3), or may be awards to eligible entities described in subsection (b)(1)(B) within such States.

''(C) FINDING WITH RESPECT TO DISTRICT OF COLUMBIA.—The Secretary shall consider the District of Columbia to have a significant unmet need for purposes of subparagraph (A), and to face a particularly high degree of risk for such purposes, on the basis of the concentration of entities of national significance located within the District.

''(6) FUNDING OF LOCAL ENTITIES.—For fiscal year 2003, the Secretary shall in making awards under this section ensure that appropriate portions of such awards are made available to political subdivisions, local departments of public health, hospitals (including children's hospitals), clinics, health centers, or primary care facilities, or consortia of such entities.

''SEC. 319C–2. PARTNERSHIPS FOR COMMUNITY AND HOSPITAL PREPAREDNESS.

''(a) GRANTS.—The Secretary shall make awards of grants or cooperative agreements to eligible entities to enable such entities to improve community and hospital preparedness for bioterrorism and other public health emergencies.

''(b) ELIGIBILITY.—To be eligible for an award under subsection (a), an entity shall—

''(1) be a partnership consisting of—

''(A) one or more hospitals (including children's hospitals), clinics, health centers, or primary care facilities; and

''(B)(i) one or more political subdivisions of States;

''(ii) one or more States; or

''(iii) one or more States and one or more political subdivisions of States; and

''(2) prepare, in consultation with the Chief Executive Officer of the State, District, or territory in which the hospital, clinic, health center, or primary care facility described in paragraph (1)(A) is located, and submit to the Secretary, an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) REGIONAL COORDINATION.—In making awards under subsection (a), the Secretary shall give preference to eligible entities that submit applications that, in the determination of the Secretary, will—

''(1) enhance coordination—

''(A) among the entities described in subsection (b)(1)(A); and

''(B) between such entities and the entities described in subsection (b)(1)(B); and

''(2) serve the needs of a defined geographic area.

''(d) CONSISTENCY OF PLANNED ACTIVITIES.—An entity described in subsection (b)(1) shall utilize amounts received under an award under subsection (a) in a manner that is coordinated and consistent, as determined by the Secretary, with an applicable State Bioterrorism and Other Public Health Emergency Preparedness and Response Plan.

''(e) USE OF FUNDS.—An award under subsection (a) may be expended for activities that may include the following and similar activities—

''(1) planning and administration for such award;

''(2) preparing a plan for triage and transport management in the event of bioterrorism or other public health emergencies;

''(3) enhancing the training of health care professionals to improve the ability of such professionals to recognize the symptoms of exposure to a potential bioweapon, to make appropriate diagnosis, and to provide treatment to those individuals so exposed;

''(4) enhancing the training of health care professionals to recognize and treat the mental health consequences of bioterrorism or other public health emergencies;

''(5) enhancing the training of health care professionals to assist in providing appropriate health care for large numbers of individuals exposed to a bioweapon;

''(6) enhancing training and planning to protect the health and safety of personnel involved in responding to a biological attack;

''(7) developing and implementing the trauma care and burn center care components of the State plans for the provision of emergency medical services; or

''(8) conducting such activities as are described in section 319C–1(d) that are appropriate for hospitals (including children's hospitals), clinics, health centers, or primary care facilities.

''(f) LIMITATION ON AWARDS.—A political subdivision of a State shall not participate in more than one partnership described in subsection (b)(1).

''(g) PRIORITIES IN USE OF GRANTS.—

''(1) IN GENERAL.—

''(A) PRIORITIES.—Except as provided in subparagraph (B), the Secretary shall, in carrying out the activities described in this section, address the following hazards in the following priority:

''(i) Bioterrorism or acute outbreaks of infectious diseases.

''(ii) Other public health threats and emergencies.

''(B) DETERMINATION OF THE SECRETARY.—In the case of the hazard involved, the degree of priority that would apply to the hazard based on the categories specified in clauses (i) and (ii) of subparagraph (A) may be modified by the Secretary if the following conditions are met:

''(i) The Secretary determines that the modification is appropriate on the basis of the following factors:

''(I) The extent to which eligible entities are adequately prepared for responding to hazards within the category specified in clause (i) of subparagraph (A).

''(II) There has been a significant change in the assessment of risks to the public health posed by hazards within the category specified in clause (ii) of such subparagraph.

''(ii) Prior to modifying the priority, the Secretary notifies the appropriate committees of the Congress of the determination of the Secretary under clause (i) of this subparagraph.

''(2) AREAS OF EMPHASIS WITHIN CATEGORIES.—The Secretary shall determine areas of emphasis within the category of hazards specified in clause (i) of paragraph (1)(A), and shall determine areas of emphasis within the category of hazards specified in clause (ii) of such paragraph, based on an assessment of the risk and likely consequences of such hazards and on an evaluation of Federal, State, and local needs, and may also take into account the extent to which receiving an award under subsection (a) will develop capacities that can be used for public health emergencies of varying types.

''(h) COORDINATION WITH LOCAL MEDICAL RESPONSE SYSTEM.—An eligible entity and local Metropolitan Medical Response Systems shall, to the extent practicable, ensure that activities carried out under an award under subsection (a) are coordinated with activities that are carried out by local Metropolitan Medical Response Systems.

''(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2004 through 2006.''.

(b) CERTAIN GRANTS.—Section 319C of the Public Health Service Act (42 U.S.C. 247d–3) is amended by striking subsection (f).

Subtitle D—Emergency Authorities; Additional Provisions

SEC. 141. REPORTING DEADLINES.

Section 319 of the Public Health Service Act (42 U.S.C. 247d) is amended by adding at the end the following:

''(d) DATA SUBMITTAL AND REPORTING DEADLINES.—In any case in which the Secretary determines that, wholly or partially as a result of a public health emergency that has been determined pursuant to subsection (a), individuals or public or private entities are unable to comply with deadlines for the submission to the Secretary of data or reports required under any law administered by the Secretary, the Secretary may, notwithstanding any other provision of law, grant such extensions of such deadlines as the circumstances reasonably require, and may waive, wholly or partially, any sanctions otherwise applicable to such failure to comply. Before or promptly after granting such an extension or waiver, the Secretary shall notify the Congress of such action and publish in the Federal Register a notice of the extension or waiver.''.

SEC. 142. STREAMLINING AND CLARIFYING COMMUNICABLE DISEASE QUARANTINE PROVISIONS.

(a) ELIMINATION OF PREREQUISITE FOR NATIONAL ADVISORY HEALTH COUNCIL RECOMMENDATION BEFORE ISSUING QUARANTINE RULES.—

(1) EXECUTIVE ORDERS SPECIFYING DISEASES SUBJECT TO INDIVIDUAL DETENTIONS.—Section 361(b) of the Public Health Act (42 U.S.C. 264(b)) is amended by striking ''Executive orders of the President upon the recommendation of the National Advisory Health Council and the Surgeon General'' and inserting ''Executive orders of the President upon the recommendation of the Secretary, in consultation with the Surgeon General,''.

(2) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS.—Section 361(d) of the Public Health Act (42 U.S.C. 264(d)) is amended by striking ''On recommendation of the National Advisory Health Council, regulations'' and inserting ''Regulations''.

(3) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS IN WARTIME.—Section 363 of the Public Health Act (42 U.S.C. 266) is amended by striking ''the Surgeon General, on recommendation of the National Advisory Health Council,'' and inserting ''the Secretary, in consultation with the Surgeon General,''.

(b) APPREHENSION AUTHORITY TO APPLY IN CASES OF EXPOSURE TO DISEASE.—

(1) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS.—Section 361(d) of the Public Health Act (42 U.S.C. 264(d)), as amended by subsection (a)(2), is further amended—

(A) by striking ''(1)'' and ''(2)'' and inserting ''(A)'' and ''(B)'', respectively;

(B) by striking ''(d)'' and inserting ''(d)(1)'';

(C) in paragraph (1) (as designated by subparagraph (B) of this paragraph), in the first sentence, by striking ''in a communicable stage'' each place such term appears and inserting ''in a qualifying stage''; and

(D) by adding at the end the following paragraph:

''(2) For purposes of this subsection, the term 'qualifying stage', with respect to a communicable disease, means that such disease—

''(A) is in a communicable stage; or

''(B) is in a precommunicable stage, if the disease would be likely to cause a public health emergency if transmitted to other individuals.''.

(2) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS IN WARTIME.—Section 363 of the Public Health Act (42 U.S.C. 266), as amended by subsection (a)(3), is further amended by striking ''in a communicable stage''

(c) STATE AUTHORITY.—Section 361 of the Public Health Act (42 U.S.C. 264) is amended by adding at the end the following:

''(e) Nothing in this section or section 363, or the regulations promulgated under such sections, may be construed as superseding any provision under State law (including regulations and including provisions established by political subdivisions of States), except to the extent that such a provision conflicts with an exercise of Federal authority under this section or section 363.''.

SEC. 143. EMERGENCY WAIVER OF MEDICARE, MEDICAID, AND SCHIP REQUIREMENTS.

(a) WAIVER AUTHORITY.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1134 the following new section:

''AUTHORITY TO WAIVE REQUIREMENTS DURING NATIONAL EMERGENCIES

''SEC. 1135. (a) PURPOSE.—The purpose of this section is to enable the Secretary to ensure to the maximum extent feasible, in any emergency area and during an emergency period (as defined in subsection (g)(1))—

''(1) that sufficient health care items and services are available to meet the needs of individuals in such area enrolled in the programs under titles XVIII, XIX, and XXI; and

''(2) that health care providers (as defined in subsection (g)(2)) that furnish such items and services in good faith, but that are unable to comply with one or more requirements described in subsection (b), may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse.

''(b) SECRETARIAL AUTHORITY.—To the extent necessary to accomplish the purpose specified in subsection (a), the Secretary is authorized, subject to the provisions of this section, to temporarily waive or modify the application of, with respect to health care items and services furnished by a health care provider (or classes of health care providers) in any emergency area (or portion of such an area) during any portion of an emergency period, the requirements of titles XVIII, XIX, or XXI, or any regulation thereunder (and the requirements of this title other than this section, and regulations thereunder, insofar as they relate to such titles), pertaining to—

''(1)(A) conditions of participation or other certification requirements for an individual health care provider or types of providers,

''(B) program participation and similar requirements for an individual health care provider or types of providers, and

''(C) pre-approval requirements;

''(2) requirements that physicians and other health care professionals be licensed in the State in which they provide such services, if they have equivalent licensing in another State and are not affirmatively excluded from practice in that State or in any State a part of which is included in the emergency area;

''(3) sanctions under section 1867 (relating to examination and treatment for emergency medical conditions and women in labor) for a transfer of an individual who has not been stabilized in violation of subsection (c) of such section if the transfer arises out of the circumstances of the emergency;

''(4) sanctions under section 1877(g) (relating to limitations on physician referral);

''(5) deadlines and timetables for performance of required activities, except that such deadlines and timetables may only be modified, not waived; and

''(6) limitations on payments under section 1851(i) for health care items and services furnished to individuals enrolled in a Medicare+Choice plan by health care professionals or facilities not included under such plan.

Insofar as the Secretary exercises authority under paragraph (6) with respect to individuals enrolled in a Medicare+Choice plan, to the extent possible given the circumstances, the Secretary shall reconcile payments made on behalf of such enrollees to ensure that the enrollees do not pay more than would be required had they received services from providers within the network of the plan and may reconcile payments to the organization offering the plan to ensure that such organization pays for services for which payment is included in the capitation payment it receives under part C of title XVIII.

''(c) AUTHORITY FOR RETROACTIVE WAIVER.—A waiver or modification of requirements pursuant to this section may, at the Secretary's discretion, be made retroactive to the beginning of the emergency period or any subsequent date in such period specified by the Secretary.

''(d) CERTIFICATION TO CONGRESS.—The Secretary shall provide a certification and advance written notice to the Congress at least two days before exercising the authority under this section with respect to an emergency area. Such a certification and notice shall include—

''(1) a description of—

''(A) the specific provisions that will be waived or modified;

''(B) the health care providers to whom the waiver or modification will apply;

''(C) the geographic area in which the waiver or modification will apply; and

''(D) the period of time for which the waiver or modification will be in effect; and

''(2) a certification that the waiver or modification is necessary to carry out the purpose specified in subsection (a).

''(e) DURATION OF WAIVER.—

''(1) IN GENERAL.—A waiver or modification of requirements pursuant to this section terminates upon—

''(A) the termination of the applicable declaration of emergency or disaster described in subsection (g)(1)(A);

''(B) the termination of the applicable declaration of public health emergency described in subsection (g)(1)(B); or

''(C) subject to paragraph (2), the termination of a period of 60 days from the date the waiver or modification is first published (or, if applicable, the date of extension of the waiver or modification under paragraph (2)).

''(2) EXTENSION OF 60-DAY PERIODS.—The Secretary may, by notice, provide for an extension of a 60-day period described in paragraph (1)(C) (or an additional period provided under this paragraph) for additional period or periods (not to exceed, except as subsequently provided under this paragraph, 60 days each), but any such extension shall not affect or prevent the termination of a waiver or modification under subparagraph (A) or (B) of paragraph (1).

''(f) REPORT TO CONGRESS.—Within one year after the end of the emergency period in an emergency area in which the Secretary exercised the authority provided under this section, the Secretary shall report to the Congress regarding the approaches used to accomplish the purposes described in subsection (a), including an evaluation of such approaches and recommendations for improved approaches should the need for such emergency authority arise in the future.

''(g) DEFINITIONS.—For purposes of this section:

''(1) EMERGENCY AREA; EMERGENCY PERIOD.—An 'emergency area' is a geographical area in which, and an 'emergency period' is the period during which, there exists—

''(A) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and

''(B) a public health emergency declared by the Secretary pursuant to section 319 of the Public Health Service Act.

''(2) HEALTH CARE PROVIDER.—The term 'health care provider' means any entity that furnishes health care items or services, and includes a hospital or other provider of services, a physician or other health care practitioner or professional, a health care facility, or a supplier of health care items or services.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on and after September 11, 2001.

SEC. 144. PROVISION FOR EXPIRATION OF PUBLIC HEALTH EMERGENCIES.

(a) IN GENERAL.—Section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), is amended by adding at the end the following new sentence: ''Any such determination of a public health emergency terminates upon the Secretary declaring that the emergency no longer exists, or upon the expiration of the 90-day period beginning on the date on which the determination is made by the Secretary, whichever occurs first. Determinations that terminate under the preceding sentence may be renewed by the Secretary (on the basis of the same or additional facts), and the preceding sentence applies to each such renewal. Not later than 48 hours after making a determination under this subsection of a public health emergency (including a renewal), the Secretary shall submit to the Congress written notification of the determination.''.

(b) APPLICABILITY.—The amendment made by subsection (a) applies to any public health emergency under section 319(a) of the Public Health Service Act, including any such emergency that was in effect as of the day before the date of the enactment of this Act. In the case of such an emergency that was in effect as of such day, the 90-day period described in such section with respect to the termination of the emergency is deemed to begin on such date of enactment.

Subtitle E—Additional Provisions

SEC. 151. DESIGNATED STATE PUBLIC EMERGENCY ANNOUNCEMENT PLAN.

Section 613(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196b(b)) is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(7) include a plan for providing information to the public in a coordinated manner.''.

SEC. 152. EXPANDED RESEARCH BY SECRETARY OF ENERGY.

(a) DETECTION AND IDENTIFICATION RESEARCH.—

(1) IN GENERAL.—In conjunction with the working group under section 319F(a) of the Public Health Service Act, the Secretary of Energy and the Administrator of the National Nuclear Security Administration shall expand, enhance, and intensify research relevant to the rapid detection and identification of pathogens likely to be used in a bioterrorism attack or other agents that may cause a public health emergency.

(2) AUTHORIZED ACTIVITIES.—Activities carried out under paragraph (1) may include—

(A) the improvement of methods for detecting biological agents or toxins of potential use in a biological attack and the testing of such methods under variable conditions;

(B) the improvement or pursuit of methods for testing, verifying, and calibrating new detection and surveillance tools and techniques; and

(C) carrying out other research activities in relevant areas.

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the National Nuclear Security Administration shall submit to the Committee on Energy and Natural Resources and the Committee on Armed Services of the Senate, and the Committee on Energy and Commerce and the Committee on Armed Services of the House of Representatives, a report setting forth the programs and projects that will be funded prior to the obligation of funds appropriated under subsection (b).

(b) AUTHORIZATION.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary in each of fiscal years 2002 through 2006.

SEC. 153. EXPANDED RESEARCH ON WORKER HEALTH AND SAFETY.

The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), acting through the Director of the National Institute of Occupational Safety and Health, shall enhance and expand research as deemed appropriate on the health and safety of workers who are at risk for bioterrorist threats or attacks in the workplace, including research on the health effects of measures taken to treat or protect such workers for diseases or disorders resulting from a bioterrorist threat or attack. Nothing in this section may be construed as establishing new regulatory authority for the Secretary or the Director to issue or modify any occupational safety and health rule or regulation.

SEC. 154. ENHANCEMENT OF EMERGENCY PREPAREDNESS OF DEPARTMENT OF VETERANS AFFAIRS.

(a) READINESS OF DEPARTMENT MEDICAL CENTER.—(1) The Secretary of Veterans Affairs shall take appropriate actions to enhance the readiness of Department of Veterans Affairs medical centers to protect the patients and staff of such centers from chemical or biological attack or otherwise to respond to such an attack and so as to enable such centers to fulfil their obligations as part of the Federal response to public health emegencies.

(2) Actions under paragraph (1) shall include—

(A) the provision of decontamination equipment and personal protection equipment at Department medical centers; and

(B) the provision of training in the use of such equipment to staff of such centers.

(b) SECURITY AT DEPARTMENT MEDICAL AND RESEARCH FACILITIES.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary shall carry out an evaluation of the security needs at Department medical centers and research facilities. The evaluation shall address the following needs:

(A) Needs for the protection of patients and medical staff during emergencies, including a chemical or biological attack or other terrorist attack.

(B) Needs, if any, for screening personnel engaged in research relating to biological pathogens or agents, including work associated with such research.

(C) Needs for securing laboratories or other facilities engaged in research relating to biological pathogens or agents.

(D) Any other needs the Secretary considers appropriate.

(2) The Secretary shall take appropriate actions to enhance the security of Department medical centers and research facilities, including staff and patients at such centers and facilities. In taking such actions, the Secretary shall take into account the results of the evaluation required by paragraph (1).

(c) TRACKING OF PHARMACEUTICALS AND MEDICAL SUPPLIES AND EQUIPMENT.—The Secretary shall develop and maintain a centralized system for tracking the current location and availability of pharmaceuticals, medical supplies, and medical equipment throughout the Department health care system in order to permit the ready identification and utilization of such pharmaceuticals, supplies, and equipment for a variety of purposes, including response to a chemical or biological attack or other terrorist attack.

(d) TRAINING.—The Secretary shall ensure that the Department medical centers, in consultation with the accredited medical school affiliates of such medical centers, develop and implement curricula to train resident physicians and health care personnel in medical matters relating to biological, chemical, or radiological attacks.

(e) PARTICIPATION IN NATIONAL DISASTER MEDICAL SYSTEM.—(1) The Secretary shall, in consultation with the Secretary of Defense, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency, establish and maintain a training program to facilitate the participation of the staff of Department medical centers, and of the community partners of such centers, in the National Disaster Medical System.

(2) The Secretary shall establish and maintain the training program under paragraph (1) in accordance with the recommendations of the working group under section 319F(a) of the Public Health Service Act.

(f) MENTAL HEALTH COUNSELING.—(1) With respect to activities conducted by personnel serving at Department medical centers, the Secretary shall, in consultation with the Secretary of Health and Human Services, the American Red Cross, and the working group under section 319F(a) of the Public Health Service Act, develop and maintain various strategies for providing mental health counseling and assistance, including counseling and assistance for posttraumatic stress disorder, to local and community emergency response providers, veterans, active duty military personnel, and individuals seeking care at Department medical centers following a bioterrorist attack or other public health emergency.

(2) The strategies under paragraph (1) shall include the following:

(A) Training and certification of providers of mental health counseling and assistance.

(B) Mechanisms for coordinating the provision of mental health counseling and assistance to emergency response providers referred to in that paragraph.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs amounts as follows:

(1) To carry out activities required by subsection (a)—

(A) $100,000,000 for fiscal year 2002; and

(B) such sums as may be necessary for each of fiscal years 2003 through 2006.

(2) To carry out activities required by subsections (b) through (f)—

(A) $33,000,000 for fiscal year 2002; and

(B) such sums as may be necessary for each of fiscal years 2003 through 2006.

SEC. 155. REAUTHORIZATION OF EXISTING PROGRAM.

Section 582(f) of the Public Health Service Act (42 U.S.C. 290hh-1(f)) is amended by striking ''2002 and 2003'' and inserting ''2003 through 2006''.

SEC. 156. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) many excellent university-based programs are already functioning and developing important biodefense products and solutions throughout the United States;

(2) accelerating the crucial work done at university centers and laboratories will contribute significantly to the United States capacity to defend against any biological threat or attack;

(3) maximizing the effectiveness of, and extending the mission of, established university programs would be one appropriate use of the additional resources provided for in this Act and the amendments made by this Act; and

(4) the Secretary of Health and Human Services should, as appropriate, recognize the importance of existing public and private university-based research, training, public awareness, and safety related biological defense programs when the Secretary makes awards of grants and contracts in accordance with this Act and the amendments made by this Act.

SEC. 157. GENERAL ACCOUNTING OFFICE REPORT.

(a) IN GENERAL.—The Comptroller General shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate, and to the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives, a report that describes—

(1) Federal activities primarily related to research on, preparedness for, and the management of the public health and medical consequences of a bioterrorist attack against the civilian population;

(2) the coordination of the activities described in paragraph (1);

(3) the effectiveness of such efforts in preparing national, State, and local authorities to address the public health and medical consequences of a potential bioterrorist attack against the civilian population;

(4) the activities and costs of the Civil Support Teams of the National Guard in responding to biological threats or attacks against the civilian population;

(5) the activities of the working group under subsection (a) and the efforts made by such group to carry out the activities described in such subsection; and

(6) the ability of private sector contractors to enhance governmental responses to biological threats or attacks.

SEC. 158. CERTAIN AWARDS.

Section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)) is amended in the matter after and below paragraph (2) by striking ''grants and'' and inserting ''grants, providing awards for expenses, and''

SEC. 159. PUBLIC ACCESS DEFIBRILLATION PROGRAMS AND PUBLIC ACCESS DEFIBRILLATION DEMONSTRATION PROJECTS.

(a) SHORT TITLE.—This section may be cited as the ''Community Access to Emergency Defibrillation Act of 2002''.

(b) FINDINGS.—Congress makes the following findings:

(1) Over 220,000 Americans die each year from cardiac arrest. Every 2 minutes, an individual goes into cardiac arrest in the United States.

(2) The chance of successfully returning to a normal heart rhythm diminishes by 10 percent each minute following sudden cardiac arrest.

(3) Eighty percent of cardiac arrests are caused by ventricular fibrillation, for which defibrillation is the only effective treatment.

(4) Sixty percent of all cardiac arrests occur outside the hospital. The average national survival rate for out-of-hospital cardiac arrest is only 5 percent.

(5) Communities that have established and implemented public access defibrillation programs have achieved average survival rates for out-of-hospital cardiac arrest as high as 50 percent.

(6) According to the American Heart Association, wide use of defibrillators could save as many as 50,000 lives nationally each year.

(7) Successful public access defibrillation programs ensure that cardiac arrest victims have access to early 911 notification, early

cardiopulmonary resuscitation, early defibrillation, and early advanced care.

(c) PUBLIC ACCESS DEFIBRILLATION PROGRAMS AND PROJECTS.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.), as amended by Public Law 106–310, is amended by adding after section 311 the following:

"SEC. 312. PUBLIC ACCESS DEFIBRILLATION PROGRAMS.

''(a) IN GENERAL.—The Secretary shall award grants to States, political subdivisions of States, Indian tribes, and tribal organizations to develop and implement public access defibrillation programs—

''(1) by training and equipping local emergency medical services personnel, including firefighters, police officers, paramedics, emergency medical technicians, and other first responders, to administer immediate care, including cardiopulmonary resuscitation and automated external defibrillation, to cardiac arrest victims;

''(2) by purchasing automated external defibrillators, placing the defibrillators in public places where cardiac arrests are likely to occur, and training personnel in such places to administer cardiopulmonary resuscitation and automated external defibrillation to cardiac arrest victims;

''(3) by setting procedures for proper maintenance and testing of such devices, according to the guidelines of the manufacturers of the devices;

''(4) by providing training to members of the public in cardiopulmonary resuscitation and automated external defibrillation;

''(5) by integrating the emergency medical services system with the public access defibrillation programs so that emergency medical services personnel, including dispatchers, are informed about the location of automated external defibrillators in their community; and

''(6) by encouraging private companies, including small businesses, to purchase automated external defibrillators and provide training for their employees to administer cardiopulmonary resuscitation and external automated defibrillation to cardiac arrest victims in their community.

''(b) PREFERENCE.—In awarding grants under subsection (a), the Secretary shall give a preference to a State, political subdivision of a State, Indian tribe, or tribal organization that—

''(1) has a particularly low local survival rate for cardiac arrests, or a particularly low local response rate for cardiac arrest victims; or

''(2) demonstrates in its application the greatest commitment to establishing and maintaining a public access defibrillation program.

''(c) USE OF FUNDS.—A State, political subdivision of a State, Indian tribe, or tribal organization that receives a grant under subsection (a) may use funds received through such grant to—

''(1) purchase automated external defibrillators that have been approved, or cleared for marketing, by the Food and Drug Administration;

''(2) provide automated external defibrillation and basic life support training in automated external defibrillator usage through nationally recognized courses;

''(3) provide information to community members about the public access defibrillation program to be funded with the grant;

''(4) provide information to the local emergency medical services system regarding the placement of automated external defibrillators in public places;

''(5) produce materials to encourage private companies, including small businesses, to purchase automated external defibrillators; and

''(6) further develop strategies to improve access to automated external defibrillators in public places.

''(d) APPLICATION.—

''(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), a State, political subdivision of a State, Indian tribe, or tribal organization shall prepare and submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(2) CONTENTS.—An application submitted under paragraph (1) shall—

''(A) describe the comprehensive public access defibrillation program to be funded with the grant and demonstrate how such program would make automated external defibrillation accessible and available to cardiac arrest victims in the community;

''(B) contain procedures for implementing appropriate nationally recognized training courses in performing cardiopulmonary resuscitation and the use of automated external defibrillators;

''(C) contain procedures for ensuring direct involvement of a licensed medical professional and coordination with the local emergency medical services system in the oversight of training and notification of incidents of the use of the automated external defibrillators;

''(D) contain procedures for proper maintenance and testing of the automated external defibrillators, according to the labeling of the manufacturer;

''(E) contain procedures for ensuring notification of local emergency medical services system personnel, including dispatchers, of the location and type of devices used in the public access defibrillation program; and

''(F) provide for the collection of data regarding the effectiveness of the public access defibrillation program to be funded with the grant in affecting the out-of-hospital cardiac arrest survival rate.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006. Not more than 10 percent of amounts received under a grant awarded under this section may be used for administrative expenses.

"SEC. 313. PUBLIC ACCESS DEFIBRILLATION DEMONSTRATION PROJECTS.

''(a) IN GENERAL.—The Secretary shall award grants to political subdivisions of States, Indian tribes, and tribal organizations to develop and implement innovative, comprehensive, community-based public access defibrillation demonstration projects that—

''(1) provide cardiopulmonary resuscitation and automated external defibrillation to cardiac arrest victims in unique settings;

''(2) provide training to community members in cardiopulmonary resuscitation and automated external defibrillation; and

''(3) maximize community access to automated external defibrillators.

''(b) USE OF FUNDS.—A recipient of a grant under subsection (a) shall use the funds provided through the grant to—

''(1) purchase automated external defibrillators that have been approved, or cleared for marketing, by the Food and Drug Administration;

''(2) provide basic life training in automated external defibrillator usage through nationally recognized courses;

''(3) provide information to community members about the public access defibrillation demonstration project to be funded with the grant;

''(4) provide information to the local emergency medical services system regarding the placement of automated external defibrillators in the unique settings; and

''(5) further develop strategies to improve access to automated external defibrillators in public places.

''(c) APPLICATION.—

''(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), a political subdivision of a State, Indian tribe, or tribal organization shall prepare and submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(2) CONTENTS.—An application submitted under paragraph (1) may—

''(A) describe the innovative, comprehensive, community-based public access defibrillation demonstration project to be funded with the grant;

''(B) explain how such public access defibrillation demonstration project represents innovation in providing public access to automated external defibrillation; and

''(C) provide for the collection of data regarding the effectiveness of the demonstration project to be funded with the grant in—

''(i) providing emergency cardiopulmonary resuscitation and automated external defibrillation to cardiac arrest victims in the setting served by the demonstration project; and

''(ii) affecting the cardiac arrest survival rate in the setting served by the demonstration project.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2002 through 2006. Not more than 10 percent of amounts received under a grant awarded under this section may be used for administrative expenses.''.

TITLE II—ENHANCING CONTROLS ON DANGEROUS BIOLOGICAL AGENTS AND TOXINS

Subtitle A—Department of Health and Human Services

SEC. 201. REGULATION OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.

(a) BIOLOGICAL AGENTS PROVISIONS OF THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996; CODIFICATION IN THE PUBLIC HEALTH SERVICE ACT, WITH AMENDMENTS.—Subpart 1 of part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by inserting after section 351 the following:

"SEC. 351A. ENHANCED CONTROL OF DANGEROUS BIOLOGICAL AGENTS AND TOXINS.

''(a) REGULATORY CONTROL OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.—

''(1) LIST OF BIOLOGICAL AGENTS AND TOXINS.—

''(A) IN GENERAL.—The Secretary shall by regulation establish and maintain a list of each biological agent and each toxin that has the potential to pose a severe threat to public health and safety.

''(B) CRITERIA.—In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

''(i) consider—

''(I) the effect on human health of exposure to the agent or toxin;

''(II) the degree of contagiousness of the agent or toxin and the methods by which the agent or toxin is transferred to humans;

''(III) the availability and effectiveness of pharmacotherapies and immunizations to treat and prevent any illness resulting from infection by the agent or toxin; and

''(IV) any other criteria, including the needs of children and other vulnerable populations, that the Secretary considers appropriate; and

''(ii) consult with appropriate Federal departments and agencies and with scientific experts representing appropriate professional groups, including groups with pediatric expertise.

''(2) BIENNIAL REVIEW.—The Secretary shall review and republish the list under paragraph (1) biennially, or more often as needed, and shall by regulation revise the list as necessary in accordance with such paragraph.

''(b) REGULATION OF TRANSFERS OF LISTED AGENTS AND TOXINS.—The Secretary shall by regulation provide for—

''(1) the establishment and enforcement of safety procedures for the transfer of listed agents and toxins, including measures to ensure—

''(A) proper training and appropriate skills to handle such agents and toxins; and

''(B) proper laboratory facilities to contain and dispose of such agents and toxins;

''(2) the establishment and enforcement of safeguard and security measures to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

''(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of such an agent or toxin in violation of the safety procedures established under paragraph (1) or the safeguard and security measures established under paragraph (2); and

''(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

''(c) POSSESSION AND USE OF LISTED AGENTS AND TOXINS.—The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of listed agents and toxins, including the provisions described in paragraphs (1) through (4) of subsection (b), in order to protect the public health and safety.

''(d) REGISTRATION; IDENTIFICATION; DATABASE.—

''(1) REGISTRATION.—Regulations under subsections (b) and (c) shall require registration with the Secretary of the possession, use, and transfer of listed agents and toxins, and shall include provisions to ensure that persons seeking to register under such regulations have a lawful purpose to possess, use, or transfer such agents and toxins, including provisions in accordance with subsection (e)(6).

''(2) IDENTIFICATION; DATABASE.—Regulations under subsections (b) and (c) shall require that registration include (if available to the person registering) information regarding the characterization of listed agents and toxins to facilitate their identification, including their source. The Secretary shall maintain a national database that includes the names and locations of registered persons, the listed agents and toxins such persons are possessing, using, or transferring, and information regarding the characterization of such agents and toxins.

''(e) SAFEGUARD AND SECURITY REQUIREMENTS FOR REGISTERED PERSONS.—

''(1) IN GENERAL.—Regulations under subsections (b) and (c) shall include appropriate safeguard and security requirements for persons possessing, using, or transferring a listed agent or toxin commensurate with the risk such agent or toxin poses to public health and safety (including the risk of use in domestic or international terrorism). The Secretary shall establish such requirements in consultation with the Attorney General, and shall ensure compliance with such requirements as part of the registration system under such regulations.

''(2) LIMITING ACCESS TO LISTED AGENTS AND TOXINS.—Requirements under paragraph (1) shall include provisions to ensure that registered persons—

''(A) provide access to listed agents and toxins to only those individuals whom the registered person involved determines have a legitimate need to handle or use such agents and toxins;

''(B) submit the names and other identifying information for such individuals to the Secretary and the Attorney General, promptly after first determining that the individuals need access under subparagraph (A), and periodically thereafter while the individuals have such access, not less frequently than once every five years;

''(C) deny access to such agents and toxins by individuals whom the Attorney General has identified as restricted persons; and

''(D) limit or deny access to such agents and toxins by individuals whom the Attorney General has identified as within any category under paragraph (3)(B)(ii), if limiting or denying such access by the individuals involved is determined appropriate by the Secretary, in consultation with the Attorney General.

''(3) SUBMITTED NAMES; USE OF DATABASES BY ATTORNEY GENERAL.—

''(A) IN GENERAL.—Upon the receipt of names and other identifying information under paragraph (2)(B), the Attorney General shall, for the sole purpose of identifying whether the individuals involved are within any of the categories specified in subparagraph (B), promptly use criminal, immigration, national security, and other electronic databases that are available to the Federal Government and are appropriate for such purpose.

''(B) CERTAIN INDIVIDUALS.—For purposes of subparagraph (A), the categories specified in this subparagraph regarding an individual are that—

''(i) the individual is a restricted person; or

''(ii) the individual is reasonably suspected by any Federal law enforcement or intelligence agency of—

''(I) committing a crime set forth in section 2332b(g)(5) of title 18, United States Code;

''(II) knowing involvement with an organization that engages in domestic or international terrorism (as defined in section 2331 of such title 18) or with any other organization that engages in intentional crimes of violence; or

''(III) being an agent of a foreign power (as defined in section 1801 of title 50, United States Code).

''(C) NOTIFICATION BY ATTORNEY GENERAL REGARDING SUBMITTED NAMES.—After the receipt of a name and other identifying information under paragraph (2)(B), the Attorney General shall promptly notify the Secretary whether the individual is within any of the categories specified in subparagraph (B).

''(4) NOTIFICATIONS BY SECRETARY.—The Secretary, after receiving notice under paragraph (3) regarding an individual, shall promptly notify the registered person involved of whether the individual is granted or denied access under paragraph (2). If the individual is denied such access, the Secretary shall promptly notify the individual of the denial.

''(5) EXPEDITED REVIEW.—Regulations under subsections (b) and (c) shall provide for a procedure through which, upon request to the Secretary by a registered person who submits names and other identifying information under paragraph (2)(B) and who demonstrates good cause, the Secretary may, as determined appropriate by the Secretary—

''(A) request the Attorney General to expedite the process of identification under paragraph (3)(A) and notification of the Secretary under paragraph (3)(C); and

''(B) expedite the notification of the registered person by the Secretary under paragraph (4).

''(6) PROCESS REGARDING PERSONS SEEKING TO REGISTER.—

''(A) INDIVIDUALS.—Regulations under subsections (b) and (c) shall provide that an individual who seeks to register under either of such subsections is subject to the same processes described in paragraphs (2) through (4) as apply to names and other identifying information submitted to the Attorney General under paragraph (2)(B). Paragraph (5) does not apply for purposes of this subparagraph.

''(B) OTHER PERSONS.—Regulations under subsections (b) and (c) shall provide that, in determining whether to deny or revoke registration by a person other than an individual, the Secretary shall submit the name of such person to the Attorney General, who shall use criminal, immigration, national security, and other electronic databases available to the Federal Government, as appropriate for the purpose of promptly notifying the Secretary whether the person, or, where relevant, the individual who owns or controls such person, is a restricted person or is reasonably suspected by any Federal law enforcement or intelligence agency of being within any category specified in paragraph (3)(B)(ii) (as applied to persons, including individuals). Such regulations shall provide that a person who seeks to register under either of such subsections is subject to the same processes described in paragraphs (2) and (4) as apply to names and other identifying information submitted to the Attorney General under paragraph (2)(B). Paragraph (5) does not apply for purposes of this subparagraph. The Secretary may exempt Federal, State, or local governmental agencies from the requirements of this subparagraph.

''(7) REVIEW.—

''(A) ADMINISTRATIVE REVIEW.—

''(i) IN GENERAL.—Regulations under subsections (b) and (c) shall provide for an opportunity for a review by the Secretary—

''(I) when requested by the individual involved, of a determination under paragraph (2) to deny the individual access to listed agents and toxins; and

''(II) when requested by the person involved, of a determination under paragraph (6) to deny or revoke registration for such person.

''(ii) EX PARTE REVIEW.—During a review under clause (i), the Secretary may consider information relevant to the review ex parte to the extent that disclosure of the information could compromise national security or an investigation by any law enforcement agency.

''(iii) FINAL AGENCY ACTION.—The decision of the Secretary in a review under clause (i) constitutes final agency action for purposes of section 702 of title 5, United States Code.

''(B) CERTAIN PROCEDURES.—

''(i) SUBMISSION OF EX PARTE MATERIALS IN JUDICIAL PROCEEDINGS.—When reviewing a decision of the Secretary under subparagraph (A), and upon request made ex parte and in writing by the United States, a court, upon a sufficient showing, may review and consider ex parte documents containing information the disclosure of which could compromise national security or an investigation by any law enforcement agency. If the court determines that portions of the documents considered ex parte should be disclosed to the person involved to allow a response, the court shall authorize the United States to delete from such documents specified items of information the disclosure of which could compromise national security or an investigation by any law enforcement agency, or to substitute a summary of the information to which the person may respond. Any order by the court authorizing the disclosure of information that the United States believes could compromise national security or an investigation by any law enforcement agency shall be subject to the processes set forth in subparagraphs (A) and (B)(i) of section 2339B(f)(5) of title 18, United States Code (relating to interlocutory appeal and expedited consideration).

''(ii) DISCLOSURE OF INFORMATION.—In a review under subparagraph (A), and in any judical proceeding conducted pursuant to such review, neither the Secretary nor the Attorney General may be required to disclose to the public any information that under subsection (h) shall not be disclosed under section 552 of title 5, United States Code.

''(8) NOTIFICATIONS REGARDING THEFT OR LOSS OF AGENTS.—Requirements under paragraph (1) shall include the prompt notification of the Secretary, and appropriate Federal, State, and local law enforcement agencies, of the theft or loss of listed agents and toxins.

''(9) TECHNICAL ASSISTANCE FOR REGISTERED PERSONS.—The Secretary, in consultation with the Attorney General, may provide technical assistance to registered persons to improve security of the facilities of such persons.

''(f) INSPECTIONS.—The Secretary shall have the authority to inspect persons subject to regulations under subsection (b) or (c) to ensure their compliance with such regulations, including prohibitions on restricted persons and other provisions of subsection (e).

''(g) EXEMPTIONS.—

''(1) CLINICAL OR DIAGNOSTIC LABORATORIES.—Regulations under subsections (b) and (c) shall exempt clinical or diagnostic laboratories and other persons who possess, use, or transfer listed

agents or toxins that are contained in specimens presented for diagnosis, verification, or proficiency testing, provided that—

''(A) the identification of such agents or toxins is reported to the Secretary, and when required under Federal, State, or local law, to other appropriate authorities; and

''(B) such agents or toxins are transferred or destroyed in a manner set forth by the Secretary by regulation.

''(2) PRODUCTS.—

''(A) IN GENERAL.—Regulations under subsections (b) and (c) shall exempt products that are, bear, or contain listed agents or toxins and are cleared, approved, licensed, or registered under any of the Acts specified in subparagraph (B), unless the Secretary by order determines that applying additional regulation under subsection (b) or (c) to a specific product is necessary to protect public health and safety.

''(B) RELEVANT LAWS.—For purposes of subparagraph (A), the Acts specified in this subparagraph are the following:

''(i) The Federal Food, Drug, and Cosmetic Act.

''(ii) Section 351 of this Act.

''(iii) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading 'Bureau of Animal Industry' in the Act of March 4, 1913; 21 U.S.C. 151-159).

''(iv) The Federal Insecticide, Fungicide, and Rodenticide Act.

''(C) INVESTIGATIONAL USE.—

''(i) IN GENERAL.—The Secretary may exempt an investigational product that is, bears, or contains a listed agent or toxin from the applicability of provisions of regulations under subsection (b) or (c) when such product is being used in an investigation authorized under any Federal Act and the Secretary determines that applying additional regulation under subsection (b) or (c) to such product is not necessary to protect public health and safety.

''(ii) CERTAIN PROCESSES.—Regulations under subsections (b) and (c) shall set forth the procedures for applying for an exemption under clause (i). In the case of investigational products authorized under any of the Acts specified in subparagraph (B), the Secretary shall make a determination regarding a request for an exemption not later than 14 days after the first date on which both of the following conditions have been met by the person requesting the exemption:

''(I) The person has submitted to the Secretary an application for the exemption meeting the requirements established by the Secretary.

''(II) The person has notified the Secretary that the investigation has been authorized under such an Act.

''(3) PUBLIC HEALTH EMERGENCIES.—The Secretary may temporarily exempt a person from the applicability of the requirements of this section, in whole or in part, if the Secretary determines that such exemption is necessary to provide for the timely participation of the person in a response to a domestic or foreign public health emergency (whether determined under section 319(a) or otherwise) that involves a listed agent or toxin. With respect to the emergency involved, such exemption for a person may not exceed 30 days, except that the Secretary, after review of whether such exemption remains necessary, may provide one extension of an additional 30 days.

''(4) AGRICULTURAL EMERGENCIES.—Upon request of the Secretary of Agriculture, after the granting by such Secretary of an exemption under section 212(g)(1)(D) of the Agricultural Bioterrorism Protection Act of 2002 pursuant to a finding that there is an agricultural emergency, the Secretary of Health and Human Services may temporarily exempt a person from the applicability of the requirements of this section, in whole or in part, to provide for the timely participation of the person in a response to the agricultural emergency. With respect to the emergency involved, the exemption under this paragraph for a person may not exceed 30 days, except that upon request of the Secretary of Agriculture, the Secretary of Health and Human Services may, after review of whether such exemption remains necessary, provide one extension of an additional 30 days.

''(h) DISCLOSURE OF INFORMATION.—

''(1) NONDISCLOSURE OF CERTAIN INFORMATION.—No Federal agency specified in paragraph (2) shall disclose under section 552 of title 5, United States Code, any of the following:

''(A) Any registration or transfer documentation submitted under subsections (b) and (c) for the possession, use, or transfer of a listed agent or toxin; or information derived therefrom to the extent that it identifies the listed agent or toxin possessed, used, or transferred by a specific registered person or discloses the identity or location of a specific registered person.

''(B) The national database developed pursuant to subsection (d), or any other compilation of the registration or transfer information submitted under subsections (b) and (c) to the extent that such compilation discloses site-specific registration or transfer information.

''(C) Any portion of a record that discloses the site-specific or transfer-specific safeguard and security measures used by a registered person to prevent unauthorized access to listed agents and toxins.

''(D) Any notification of a release of a listed agent or toxin submitted under subsections (b) and (c), or any notification of theft or loss submitted under such subsections.

''(E) Any portion of an evaluation or report of an inspection of a specific registered person conducted under subsection (f) that identifies the listed agent or toxin possessed by a specific registered person or that discloses the identity or location of a specific registered person if the agency determines that public disclosure of the information would endanger public health or safety.

''(2) COVERED AGENCIES.—For purposes of paragraph (1) only, the Federal agencies specified in this paragraph are the following:

''(A) The Department of Health and Human Services, the Department of Justice, the Department of Agriculture, and the Department of Transportation.

''(B) Any Federal agency to which information specified in paragraph (1) is transferred by any agency specified in subparagraph (A) of this paragraph.

''(C) Any Federal agency that is a registered person, or has a sub-agency component that is a registered person.

''(D) Any Federal agency that awards grants or enters into contracts or cooperative agreements involving listed agents and toxins to or with a registered person, and to which information specified in paragraph (1) is transferred by any such registered person.

''(3) OTHER EXEMPTIONS.—This subsection may not be construed as altering the application of any exemptions to public disclosure under section 552 of title 5, United States Code, except as to subsection 552(b)(3) of such title, to any of the information specified in paragraph (1).

''(4) RULE OF CONSTRUCTION.—Except as specifically provided in paragraph (1), this subsection may not be construed as altering the authority of any Federal agency to withhold under section 552 of title 5, United States Code, or the obligation of any Federal agency to disclose under section 552 of title 5, United States Code, any information, including information relating to—

''(A) listed agents and toxins, or individuals seeking access to such agents and toxins;

''(B) registered persons, or persons seeking to register their possession, use, or transfer of such agents and toxins;

''(C) general safeguard and security policies and requirements under regulations under subsections (b) and (c); or

''(D) summary or statistical information concerning registrations, registrants, denials or revocations of registrations, listed agents and toxins, inspection evaluations and reports, or individuals seeking access to such agents and toxins.

''(5) DISCLOSURES TO CONGRESS; OTHER DISCLOSURES.—This subsection may not be construed as providing any authority—

''(A) to withhold information from the Congress or any committee or subcommittee thereof; or

''(B) to withhold information from any person under any other Federal law or treaty.

''(i) CIVIL MONEY PENALTY.—

''(1) IN GENERAL.—In addition to any other penalties that may apply under law, any person who violates any provision of regulations under subsection (b) or (c) shall be subject to the United States for a civil money penalty in an amount not exceeding $250,000 in the case of an individual and $500,000 in the case of any other person.

''(2) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of section 1128A of the Social Security Act (other than subsections (a), (b), (h), and (i), the first sentence of subsection (c), and paragraphs (1) and (2) of subsection (f)) shall apply to a civil money penalty under paragraph (1) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act. The Secretary may delegate authority under this subsection in the same manner as provided in section 1128A(j)(2) of the Social Security Act, and such authority shall include all powers as contained in section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

''(j) NOTIFICATION IN EVENT OF RELEASE.—Regulations under subsections (b) and (c) shall require the prompt notification of the Secretary by a registered person whenever a release, meeting criteria established by the Secretary, of a listed agent or toxin has occurred outside of the biocontainment area of a facility of the registered person. Upon receipt of such notification and a finding by the Secretary that the release poses a threat to public health or safety, the Secretary shall take appropriate action to notify relevant State and local public health authorities, other relevant Federal authorities, and, if necessary, other appropriate persons (including the public). If the released listed agent or toxin is an overlap agent or toxin (as defined in subsection (l)), the Secretary shall promptly notify the Secretary of Agriculture upon notification by the registered person.

''(k) REPORTS.—The Secretary shall report to the Congress annually on the number and nature of notifications received under subsection (e)(8) (relating to theft or loss) and subsection (j) (relating to releases).

''(l) DEFINITIONS.—For purposes of this section:

''(1) The terms 'biological agent' and 'toxin' have the meanings given such terms in section 178 of title 18, United States Code.

''(2) The term 'listed agents and toxins' means biological agents and toxins listed pursuant to subsection (a)(1).

''(3) The term 'listed agents or toxins' means biological agents or toxins listed pursuant to subsection (a)(1).

''(4) The term 'overlap agents and toxins' means biological agents and toxins that—

''(A) are listed pursuant to subsection (a)(1); and

''(B) are listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002.

''(5) The term 'overlap agent or toxin' means a biological agent or toxin that—

''(A) is listed pursuant to subsection (a)(1); and

''(B) is listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002.

''(6) The term 'person' includes Federal, State, and local governmental entities.

''(7) The term 'registered person' means a person registered under regulations under subsection (b) or (c).

''(8) The term 'restricted person' has the meaning given such term in section 175b of title 18, United States Code.

''(m) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2007.''.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services, after consultation with other appropriate Federal agencies, shall submit to the Congress a report that—

(1) describes the extent to which there has been compliance by governmental and private entities with applicable regulations under section 351A of the Public Health Service Act (as added by subsection (a) of this section), including the extent of compliance before the date of the enactment of this Act, and including the extent of compliance with regulations promulgated after such date of enactment;

(2) describes the actions to date and future plans of the Secretary for updating the list of biological agents and toxins under such section 351A;

(3) describes the actions to date and future plans of the Secretary for determining compliance with regulations under such section 351A and for taking appropriate enforcement actions;

(4) evaluates the impact of such section 351A on research on biological agents and toxins listed pursuant to such section; and

(5) provides any recommendations of the Secretary for administrative or legislative initiatives regarding such section 351A.

SEC. 202. IMPLEMENTATION BY DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) DATE CERTAIN FOR NOTICE OF POSSESSION.—Not later than 90 days after the date of the enactment of this Act, all persons (unless exempt under subsection (g) of section 351A of the Public Health Service Act, as added by section 201 of this Act) in possession of biological agents or toxins listed under such section 351A of the Public Health Service Act shall notify the Secretary of Health and Human Services of such possession. Not later than 30 days after such date of enactment, the Secretary shall provide written guidance on how such notice is to be provided to the Secretary.

(b) DATE CERTAIN FOR PROMULGATION; EFFECTIVE DATE REGARDING CRIMINAL AND CIVIL PENALTIES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate an interim final rule for carrying out section 351A of the Public Health Service Act, subject to subsection (c). Such interim final rule shall take effect 60 days after the date on which such rule is promulgated, including for purposes of—

(1) section 175b(c) of title 18, United States Code (relating to criminal penalties), as added by section 231(a)(5) of this Act; and

(2) section 351A(i) of the Public Health Service Act (relating to civil penalties).

(c) TRANSITIONAL PROVISION REGARDING CURRENT RESEARCH AND EDUCATION.—The interim final rule under subsection (b) shall include time frames for the applicability of the rule that minimize disruption of research or educational projects that involve biological agents and toxins listed pursuant to section 351A(a)(1) of the Public Health Service Act and that were underway as of the effective date of such rule.

SEC. 203. EFFECTIVE DATES.

(a) IN GENERAL.—Regulations promulgated by the Secretary of Health and Human Services under section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 are deemed to have been promulgated under section 351A of the Public Health Service Act, as added by section 201 of this Act. Such regulations, including the list under subsection (d)(1) of such section 511, that were in effect on the day before the date of the enactment of this Act remain in effect until modified by the Secretary in accordance with such section 351A and with section 202 of this Act.

(b) EFFECTIVE DATE REGARDING DISCLOSURE OF INFORMATION.—Subsection (h) of section 351A of the Public Health Service Act, as added by section 201 of this Act, is deemed to have taken effect on the effective date of the Antiterrorism and Effective Death Penalty Act of 1996.

SEC. 204. CONFORMING AMENDMENT.

Subsections (d), (e), (f), and (g) of section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 262 note) are repealed.

Subtitle B—Department of Agriculture

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ''Agricultural Bioterrorism Protection Act of 2002''.

SEC. 212. REGULATION OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.

(a) REGULATORY CONTROL OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.—

(1) LIST OF BIOLOGICAL AGENTS AND TOXINS.—

(A) IN GENERAL.—The Secretary of Agriculture shall by regulation establish and maintain a list of each biological agent and each toxin that the Secretary determines has the potential to pose a severe threat to animal or plant health, or to animal or plant products.

(B) CRITERIA.—In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

(i) consider—

(I) the effect of exposure to the agent or toxin on animal or plant health, and on the production and marketability of animal or plant products;

(II) the pathogenicity of the agent or the toxicity of the toxin and the methods by which the agent or toxin is transferred to animals or plants;

(III) the availability and effectiveness of pharmacotherapies and prophylaxis to treat and prevent any illness caused by the agent or toxin; and

(IV) any other criteria that the Secretary considers appropriate to protect animal or plant health, or animal or plant products; and

(ii) consult with appropriate Federal departments and agencies and with scientific experts representing appropriate professional groups.

(2) BIENNIAL REVIEW.—The Secretary shall review and republish the list under paragraph (1) biennially, or more often as needed, and shall by regulation revise the list as necessary in accordance with such paragraph.

(b) REGULATION OF TRANSFERS OF LISTED AGENTS AND TOXINS.—The Secretary shall by regulation provide for—

(1) the establishment and enforcement of safety procedures for the transfer of listed agents and toxins, including measures to ensure—

(A) proper training and appropriate skills to handle such agents and toxins; and

(B) proper laboratory facilities to contain and dispose of such agents and toxins;

(2) the establishment and enforcement of safeguard and security measures to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

(3) the establishment of procedures to protect animal and plant health, and animal and plant products, in the event of a transfer or potential transfer of such an agent or toxin in violation of the safety procedures established under paragraph (1) or the safeguard and security measures established under paragraph (2); and

(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

(c) POSSESSION AND USE OF LISTED AGENTS AND TOXINS.—The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of listed agents and toxins, including the provisions described in paragraphs (1) through (4) of subsection (b), in order to protect animal and plant health, and animal and plant products.

(d) REGISTRATION; IDENTIFICATION; DATABASE.—

(1) REGISTRATION.—Regulations under subsections (b) and (c) shall require registration with the Secretary of the possession, use, and transfer of listed agents and toxins, and shall include provisions to ensure that persons seeking to register under such regulations have a lawful purpose to possess, use, or transfer such agents and toxins, including provisions in accordance with subsection (e)(6).

(2) IDENTIFICATION; DATABASE.—Regulations under subsections (b) and (c) shall require that registration include (if available to the person registering) information regarding the characterization of listed agents and toxins to facilitate their identification, including their source. The Secretary shall maintain a national database that includes the names and locations of registered persons, the listed agents and toxins such persons are possessing, using, or transferring, and information regarding the characterization of such agents and toxins.

(e) SAFEGUARD AND SECURITY REQUIREMENTS FOR REGISTERED PERSONS.—

(1) IN GENERAL.—Regulations under subsections (b) and (c) shall include appropriate safeguard and security requirements for persons possessing, using, or transferring a listed agent or toxin commensurate with the risk such agent or toxin poses to animal and plant health, and animal and plant products (including the risk of use in domestic or international terrorism). The Secretary shall establish such requirements in consultation with the Attorney General, and shall ensure compliance with such requirements as part of the registration system under such regulations.

(2) LIMITING ACCESS TO LISTED AGENTS AND TOXINS.—Requirements under paragraph (1) shall include provisions to ensure that registered persons—

(A) provide access to listed agents and toxins to only those individuals whom the registered person involved determines have a legitimate need to handle or use such agents and toxins;

(B) submit the names and other identifying information for such individuals to the Secretary and the Attorney General, promptly after first determining that the individuals need access under subparagraph (A), and periodically thereafter while the individuals have such access, not less frequently than once every five years; and

(C)(i) in the case of listed agents and toxins that are not overlap agents and toxins (as defined in subsection (g)(1)(A)(ii)), limit or deny access to such agents and toxins by individuals whom the Attorney General has identified as within any category under paragraph (3)(B), if limiting or denying such access by the individuals involved is determined appropriate by the Secretary, in consultation with the Attorney General; and

(ii) in the case of listed agents and toxins that are overlap agents—

(I) deny access to such agents and toxins by individuals whom the Attorney General has identified as within any category referred to in paragraph (3)(B)(i); and

(II) limit or deny access to such agents and toxins by individuals whom the Attorney General has identified as within any category under paragraph (3)(B)(ii), if limiting or denying such access by the individuals involved is determined appropriate by the Secretary, in consultation with the Attorney General.

(3) SUBMITTED NAMES; USE OF DATABASES BY ATTORNEY GENERAL.—

(A) IN GENERAL.—Upon the receipt of names and other identifying information under paragraph (2)(B), the Attorney General shall, for the sole purpose of identifying whether the individuals involved are within any of the categories

specified in subparagraph (B), promptly use criminal, immigration, national security, and other electronic databases that are available to the Federal Government and are appropriate for such purpose.

(B) CERTAIN INDIVIDUALS.—For purposes of subparagraph (A), the categories specified in this subparagraph regarding an individual are that—

(i) the individual is within any of the categories described in section 175b(d)(1) of title 18, United States Code (relating to restricted persons); or

(ii) the individual is reasonably suspected by any Federal law enforcement or intelligence agency of—

(I) committing a crime set forth in section 2332b(g)(5) of title 18, United States Code;

(II) knowing involvement with an organization that engages in domestic or international terrorism (as defined in section 2331 of such title 18) or with any other organization that engages in intentional crimes of violence; or

(III) being an agent of a foreign power (as defined in section 1801 of title 50, United States Code).

(C) NOTIFICATION BY ATTORNEY GENERAL REGARDING SUBMITTED NAMES.—After the receipt of a name and other identifying information under paragraph (2)(B), the Attorney General shall promptly notify the Secretary whether the individual is within any of the categories specified in subparagraph (B).

(4) NOTIFICATIONS BY SECRETARY.—The Secretary, after receiving notice under paragraph (3) regarding an individual, shall promptly notify the registered person involved of whether the individual is granted or denied access under paragraph (2). If the individual is denied such access, the Secretary shall promptly notify the individual of the denial.

(5) EXPEDITED REVIEW.—Regulations under subsections (b) and (c) shall provide for a procedure through which, upon request to the Secretary by a registered person who submits names and other identifying information under paragraph (2)(B) and who demonstrates good cause, the Secretary may, as determined appropriate by the Secretary—

(A) request the Attorney General to expedite the process of identification under paragraph (3)(A) and notification of the Secretary under paragraph (3)(C); and

(B) expedite the notification of the registered person by the Secretary under paragraph (4).

(6) PROCESS REGARDING PERSONS SEEKING TO REGISTER.—

(A) INDIVIDUALS.—Regulations under subsections (b) and (c) shall provide that an individual who seeks to register under either of such subsections is subject to the same processes described in paragraphs (2) through (4) as apply to names and other identifying information submitted to the Attorney General under paragraph (2)(B). Paragraph (5) does not apply for purposes of this subparagraph.

(B) OTHER PERSONS.—Regulations under subsections (b) and (c) shall provide that, in determining whether to deny or revoke registration by a person other than an individual, the Secretary shall submit the name of such person to the Attorney General, who shall use criminal, immigration, national security, and other electronic databases available to the Federal Government, as appropriate for the purpose of promptly notifying the Secretary whether the person, or, where relevant, the individual who owns or controls such person, is within any of the categories described in section 175b(d)(1) of title 18, United States Code (relating to restricted persons), or is reasonably suspected by any Federal law enforcement or intelligence agency of being within any category specified in paragraph (3)(B)(ii) (as applied to persons, including individuals). Such regulations shall provide that a person who seeks to register under either of such subsections is subject to the same processes described in paragraphs (2) and (4) as apply to names and other identifying information submitted to the Attorney General under paragraph (2)(B). Paragraph (5) does not apply for purposes of this subparagraph. The Secretary may exempt Federal, State, or local governmental agencies from the requirements of this subparagraph.

(7) REVIEW.—

(A) ADMINISTRATIVE REVIEW.—

(i) IN GENERAL.—Regulations under subsections (b) and (c) shall provide for an opportunity for a review by the Secretary—

(I) when requested by the individual involved, of a determination under paragraph (2) to deny the individual access to listed agents and toxins; and

(II) when requested by the person involved, of a determination under under paragraph (6) to deny or revoke registration for such person.

(ii) EX PARTE REVIEW.—During a review under clause (i), the Secretary may consider information relevant to the review ex parte to the extent that disclosure of the information could compromise national security or an investigation by any law enforcement agency.

(iii) FINAL AGENCY ACTION.—The decision of the Secretary in a review under clause (i) constitutes final agency action for purposes of section 702 of title 5, United States Code.

(B) CERTAIN PROCEDURES.—

(i) SUBMISSION OF EX PARTE MATERIALS IN JUDICIAL PROCEEDINGS.—When reviewing a decision of the Secretary under subparagraph (A), and upon request made ex parte and in writing by the United States, a court, upon a sufficient showing, may review and consider ex parte documents containing information the disclosure of which could compromise national security or an investigation by any law enforcement agency. If the court determines that portions of the documents considered ex parte should be disclosed to the person involved to allow a response, the court shall authorize the United States to delete from such documents specified items of information the disclosure of which could compromise national security or an investigation by any law enforcement agency, or to substitute a summary of the information to which the person may respond. Any order by the court authorizing the disclosure of information that the United States believes could compromise national security or an investigation by any law enforcement agency shall be subject to the processes set forth in subparagraphs (A) and (B)(i) of section 2339B(f)(5) of title 18, United States Code (relating to interlocutory appeal and expedited consideration).

(ii) DISCLOSURE OF INFORMATION.—In a review under subparagraph (A), and in any judical proceeding conducted pursuant to such review, neither the Secretary nor the Attorney General may be required to disclose to the public any information that under subsection (h) shall not be disclosed under section 552 of title 5, United States Code.

(8) NOTIFICATIONS REGARDING THEFT OR LOSS OF AGENTS.—Requirements under paragraph (1) shall include the prompt notification of the Secretary, and appropriate Federal, State, and local law enforcement agencies, of the theft or loss of listed agents and toxins.

(9) TECHNICAL ASSISTANCE FOR REGISTERED PERSONS.—The Secretary, in consultation with the Attorney General, may provide technical assistance to registered persons to improve security of the facilities of such persons.

(f) INSPECTIONS.—The Secretary shall have the authority to inspect persons subject to regulations under subsection (b) or (c) to ensure their compliance with such regulations, including prohibitions on restricted persons and other provisions of subsection (e).

(g) EXEMPTIONS.—

(1) OVERLAP AGENTS AND TOXINS.—

(A) IN GENERAL.—

(i) LIMITATION.—In the case of overlap agents and toxins, exemptions from the applicability of provisions of regulations under subsection (b) or (c) may be granted only to the extent provided in this paragraph.

(ii) DEFINITIONS.—For purposes of this section:

(I) The term ''overlap agents and toxins'' means biological agents and toxins that—

(aa) are listed pursuant to subsection (a)(1); and

(bb) are listed pursuant to section 315A(a)(1) of the Public Health Service Act.

(II) The term ''overlap agent or toxin'' means a biological agent or toxin that—

(aa) is listed pursuant to subsection (a)(1); and

(bb) is listed pursuant to section 315A(a)(1) of the Public Health Service Act.

(B) CLINICAL OR DIAGNOSTIC LABORATORIES.—Regulations under subsections (b) and (c) shall exempt clinical or diagnostic laboratories and other persons who possess, use, or transfer overlap agents or toxins that are contained in specimens presented for diagnosis, verification, or proficiency testing, provided that—

(i) the identification of such agents or toxins is reported to the Secretary, and when required under Federal, State, or local law, to other appropriate authorities; and

(ii) such agents or toxins are transferred or destroyed in a manner set forth by the Secretary by regulation.

(C) PRODUCTS.—

(i) IN GENERAL.—Regulations under subsections (b) and (c) shall exempt products that are, bear, or contain overlap agents or toxins and are cleared, approved, licensed, or registered under any of the Acts specified in clause (ii), unless the Secretary by order determines that applying additional regulation under subsection (b) or (c) to a specific product is necessary to protect animal or plant health, or animal or plant products.

(ii) RELEVANT LAWS.—For purposes of clause (i), the Acts specified in this clause are the following:

(I) The Federal Food, Drug, and Cosmetic Act.

(II) Section 351 of the Public Health Service Act.

(III) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading 'Bureau of Animal Industry' in the Act of March 4, 1913; 21 U.S.C. 151-159).

(IV) The Federal Insecticide, Fungicide, and Rodenticide Act.

(iii) INVESTIGATIONAL USE.—

(I) IN GENERAL.—The Secretary may exempt an investigational product that is, bears, or contains an overlap agent or toxin from the applicability of provisions of regulations under subsection (b) or (c) when such product is being used in an investigation authorized under any Federal Act and the Secretary determines that applying additional regulation under subsection (b) or (c) to such product is not necessary to protect animal and plant health, and animal and plant products.

(II) CERTAIN PROCESSES.—Regulations under subsections (b) and (c) shall set forth the procedures for applying for an exemption under subclause (I). In the case of investigational products authorized under any of the Acts specified in clause (ii), the Secretary shall make a determination regarding a request for an exemption not later than 14 days after the first date on which both of the following conditions have been met by the person requesting the exemption:

(aa) The person has submitted to the Secretary an application for the exemption meeting the requirements established by the Secretary.

(bb) The person has notified the Secretary that the investigation has been authorized under such an Act.

(D) AGRICULTURAL EMERGENCIES.— The Secretary may temporarily exempt a person from the applicability of the requirements of this section with respect to an overlap agent or toxin, in whole or in part, if the Secretary determines that such exemption is necessary to provide for the timely participation of the person in a response to a domestic or foreign agricultural

emergency that involves such an agent or toxin. With respect to the emergency involved, the exemption under this subparagraph for a person may not exceed 30 days, except that the Secretary, after review of whether such exemption remains necessary, may provide one extension of an additional 30 days.

(E) PUBLIC HEALTH EMERGENCIES.—Upon request of the Secretary of Health and Human Services, after the granting by such Secretary of an exemption under 351A(g)(3) of the Public Health Service Act pursuant to a finding that there is a public health emergency, the Secretary of Agriculture may temporarily exempt a person from the applicability of the requirements of this section with respect to an overlap agent or toxin, in whole or in part, to provide for the timely participation of the person in a response to the public health emergency. With respect to the emergency involved, such exemption for a person may not exceed 30 days, except that upon request of the Secretary of Health and Human Services, the Secretary of Agriculture may, after review of whether such exemption remains necessary, provide one extension of an additional 30 days.

(2) GENERAL AUTHORITY FOR EXEMPTIONS NOT INVOLVING OVERLAP AGENTS OR TOXINS.—In the case of listed agents or toxins that are not overlap agents or toxins, the Secretary may grant exemptions from the applicability of provisions of regulations under subsection (b) or (c) if the Secretary determines that such exemptions are consistent with protecting animal and plant health, and animal and plant products.

(h) DISCLOSURE OF INFORMATION.—

(1) NONDISCLOSURE OF CERTAIN INFORMATION.—No Federal agency specified in paragraph (2) shall disclose under section 552 of title 5, United States Code, any of the following:

(A) Any registration or transfer documentation submitted under subsections (b) and (c), or permits issued prior to the date of the enactment of this Act, for the possession, use or transfer of a listed agent or toxin; or information derived therefrom to the extent that it identifies the listed agent or toxin possessed, used or transferred by a specific person or discloses the identity or location of a specific person.

(B) The national database developed pursuant to subsection (d), or any other compilation of the registration or transfer information submitted under subsections (b) and (c) to the extent that such compilation discloses site-specific registration or transfer information.

(C) Any portion of a record that discloses the site-specific or transfer-specific safeguard and security measures used by a registered person to prevent unauthorized access to listed agents and toxins.

(D) Any notification of a release of a listed agent or toxin submitted under subsections (b) and (c), or any notification of theft or loss submitted under such subsections.

(E) Any portion of an evaluation or report of an inspection of a specific registered person conducted under subsection (f) that identifies the listed agent or toxin possessed by a specific registered person or that discloses the identity or location of a specific registered person if the agency determines that public disclosure of the information would endanger animal or plant health, or animal or plant products.

(2) COVERED AGENCIES.—For purposes of paragraph (1) only, the Federal agencies specified in this paragraph are the following:

(A) The Department of Health and Human Services, the Department of Justice, the Department of Agriculture, and the Department of Transportation.

(B) Any Federal agency to which information specified in paragraph (1) is transferred by any agency specified in subparagraph (A) of this paragraph.

(C) Any Federal agency that is a registered person, or has a sub-agency component that is a registered person.

(D) Any Federal agency that awards grants or enters into contracts or cooperative agreements involving listed agents and toxins to or with a registered person, and to which information specified in paragraph (1) is transferred by any such registered person.

(3) OTHER EXEMPTIONS.—This subsection may not be construed as altering the application of any exemptions to public disclosure under section 552 of title 5, United States Code, except as to subsection 552(b)(3) of such title, to any of the information specified in paragraph (1).

(4) RULE OF CONSTRUCTION.—Except as specifically provided in paragraph (1), this subsection may not be construed as altering the authority of any Federal agency to withhold under section 552 of title 5, United States Code, or the obligation of any Federal agency to disclose under section 552 of title 5, United States Code, any information, including information relating to—

(A) listed agents and toxins, or individuals seeking access to such agents and toxins;

(B) registered persons, or persons seeking to register their possession, use, or transfer of such agents and toxins;

(C) general safeguard and security policies and requirements under regulations under subsections (b) and (c); or

(D) summary or statistical information concerning registrations, registrants, denials or revocations of registrations, listed agents and toxins, inspection evaluations and reports, or individuals seeking access to such agents and toxins.

(5) DISCLOSURES TO CONGRESS; OTHER DISCLOSURES.—This subsection may not be construed as providing any authority—

(A) to withhold information from the Congress or any committee or subcommittee thereof; or

(B) to withhold information from any person under any other Federal law or treaty.

(i) CIVIL MONEY PENALTY.—

(1) IN GENERAL.—In addition to any other penalties that may apply under law, any person who violates any provision of regulations under subsection (b) or (c) shall be subject to the United States for a civil money penalty in an amount not exceeding $250,000 in the case of an individual and $500,000 in the case of any other person.

(2) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 423 and 425(2) of the Plant Protection Act (7 U.S.C. 7733 and 7735(2) shall apply to a civil money penalty or activity under paragraph (1) in the same manner as such provisions apply to a penalty or activity under the Plant Protection Act.

(j) NOTIFICATION IN EVENT OF RELEASE.—Regulations under subsections (b) and (c) shall require the prompt notification of the Secretary by a registered person whenever a release, meeting criteria established by the Secretary, of a listed agent or toxin has occurred outside of the biocontainment area of a facility of the registered person. Upon receipt of such notification and a finding by the Secretary that the release poses a threat to animal or plant health, or animal or plant products, the Secretary shall take appropriate action to notify relevant Federal, State, and local authorities, and, if necessary, other appropriate persons (including the public). If the released listed agent or toxin is an overlap agent or toxin, the Secretary shall promptly notify the Secretary of Health and Human Services upon notification by the registered person.

(k) REPORTS.—The Secretary shall report to the Congress annually on the number and nature of notifications received under subsection (e)(8) (relating to theft or loss) and subsection (j) (relating to releases).

(l) DEFINITIONS.—For purposes of this section:

(1) The terms ''biological agent'' and ''toxin'' have the meanings given such terms in section 178 of title 18, United States Code.

(2) The term ''listed agents and toxins'' means biological agents and toxins listed pursuant to subsection (a)(1).

(3) The term ''listed agents or toxins'' means biological agents or toxins listed pursuant to subsection (a)(1).

(4) The terms ''overlap agents and toxins'' and ''overlap agent or toxin'' have the meaning given such terms in subsection (g)(1)(A)(ii).

(5) The term ''person'' includes Federal, State, and local governmental entities.

(6) The term ''registered person'' means a person registered under regulations under subsection (b) or (c).

(7) The term '''Secretary'' means the Secretary of Agriculture.

(m) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2007, in addition to other funds that may be available.

SEC. 213. IMPLEMENTATION BY DEPARTMENT OF AGRICULTURE.

(a) DATE CERTAIN FOR PROMULGATION OF LIST.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture (referred to in this section as the ''Secretary'') shall promulgate an interim final rule that establishes the initial list under section 212(a)(1). In promulgating such rule, the Secretary shall provide written guidance on the manner in which the notice required in subsection (b) is to be provided to the Secretary.

(b) DATE CERTAIN FOR NOTICE OF POSSESSION.—Not later than 60 days after the date on which the Secretary promulgates the interim final rule under subsection (a), all persons (unless exempt under section 212(g)) in possession of biological agents or toxins included on the list referred to in subsection (a) shall notify the Secretary of such possession.

(c) DATE CERTAIN FOR PROMULGATION; EFFECTIVE DATE REGARDING CRIMINAL AND CIVIL PENALTIES.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate an interim final rule for carrying out section 212, other than for the list referred to in subsection (a) of this section (but such rule may incorporate by reference provisions promulgated pursuant to subsection (a)). Such interim final rule shall take effect 60 days after the date on which such rule is promulgated, including for purposes of—

(1) section 175b(c) of title 18, United States Code (relating to criminal penalties), as added by section 231(a)(5) of this Act; and

(2) section 212(i) of this Act (relating to civil penalties).

(d) TRANSITIONAL PROVISION REGARDING CURRENT RESEARCH AND EDUCATION.—The interim final rule under subsection (c) shall include time frames for the applicability of the rule that minimize disruption of research or educational projects that involve biological agents and toxins listed pursuant to section 212(a)(1) and that were underway as of the effective date of such rule.

Subtitle C—Interagency Coordination Regarding Overlap Agents and Toxins

SEC. 221. INTERAGENCY COORDINATION.

(a) IN GENERAL.—

(1) COORDINATION.—The Secretary of Agriculture and the Secretary of Health and Human Services shall in accordance with this section coordinate activities regarding overlap agents and toxins.

(2) OVERLAP AGENTS AND TOXINS; OTHER TERMS.—For purposes of this section:

(A) The term ''overlap agent or toxin'' means a biological agent or toxin that—

(i) is listed pursuant to section 315A(a)(1) of the Public Health Service Act, as added by section 201 of this Act; and

(ii) is listed pursuant to section 212(a)(1) of this Act.

(B) The term ''section 351A program'' means the program under section 351A of the Public Health Service Act.

(C) The term ''section 212 program'' means the program under section 212 of this Act.

(b) CERTAIN MATTERS.—In carrying out the section 351A program and the section 212 program, the Secretary of Health and Human Services and the Secretary of Agriculture shall, to

the greatest extent practicable, coordinate activities to achieve the following purposes:

(1) To minimize any conflicts between the regulations issued under, and activities carried out under, such programs.

(2) To minimize the administrative burden on persons subject to regulation under both of such programs.

(3) To ensure the appropriate availability of biological agents and toxins for legitimate biomedical, agricultural or veterinary research, education, or other such purposes.

(4) To ensure that registration information for overlap agents and toxins under the section 351A and section 212 programs is contained in both the national database under the section 351A program and the national database under the section 212 program.

(c) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Promptly after the date of the enactment of this Act, the Secretary of Agriculture and the Secretary of Health and Human Services shall enter into a memorandum of understanding regarding overlap agents and toxins that is in accordance with paragraphs (2) through (4) and contains such additional provisions as the Secretary of Agriculture and the Secretary of Health and Human Services determine to be appropriate.

(2) SINGLE REGISTRATION SYSTEM REGARDING REGISTERED PERSONS.—The memorandum of understanding under paragraph (1) shall provide for the development and implementation of a single system of registration for persons who possess, use, or transfer overlap agents or toxins and are required to register under both the section 351A program and the section 212 program. For purposes of such system, the memorandum shall provide for the development and implementation of the following:

(A) A single registration form through which the person submitting the form provides all information that is required for registration under the section 351A program and all information that is required for registration under the section 212 program.

(B) A procedure through which a person may choose to submit the single registration form to the agency administering the section 351A program (in the manner provided under such program), or to the agency administering the section 212 program (in the manner provided under such program).

(C) A procedure through which a copy of a single registration form received pursuant to subparagraph (B) by the agency administering one of such programs is promptly provided to the agency administering the other program.

(D) A procedure through which the agency receiving the single registration form under one of such programs obtains the concurrence of the agency administering the other program that the requirements for registration under the other program have been met.

(E) A procedure through which—

(i) the agency receiving the single registration form under one of such programs informs the agency administering the other program whether the receiving agency has denied the registration; and

(ii) each of such agencies ensures that registrations are entered into the national database of registered persons that is maintained by each such agency.

(3) PROCESS OF IDENTIFICATION.—With respect to the process of identification under the section 351A program and the section 212 program for names and other identifying information submitted to the Attorney General (relating to certain categories of individuals and entities), the memorandum of understanding under paragraph (1) shall provide for the development and implementation of the following:

(A) A procedure through which a person who is required to submit information pursuant to such process makes (in addition to the submission to the Attorney General) a submission, at the option of the person, to either the agency administering the section 351A program or the agency administering the section 212 program, but not both, which submission satisfies the requirement of submission for both of such programs.

(B) A procedure for the sharing by both of such agencies of information received from the Attorney General by one of such agencies pursuant to the submission under subparagraph (A).

(C) A procedure through which the agencies administering such programs concur in determinations that access to overlap agents and toxins will be granted.

(4) COORDINATION OF INSPECTIONS AND ENFORCEMENT.—The memorandum of understanding under paragraph (1) shall provide for the development and implementation of procedures under which Federal personnel under the section 351A program and the section 212 program may share responsibilities for inspections and enforcement activities under such programs regarding overlap agents and toxins. Activities carried out under such procedures by one of such programs on behalf of the other may be carried out with or without reimbursement by the agency that administers the other program.

(5) DATE CERTAIN FOR IMPLEMENTATION.—The memorandum of understanding under paragraph (1) shall be implemented not later than 180 days after the date of the enactment of this Act. Until the single system of registration under paragraph (2) is implemented, persons who possess, use, or transfer overlap agents or toxins shall register under both the section 351A program and the section 212 program.

(d) JOINT REGULATIONS.—Not later than 18 months after the date on which the single system of registration under subsection (c)(2) is implemented, the Secretary of Health and Human Services and the Secretary of Agriculture shall jointly issue regulations for the possession, use, and transfer of overlap agents and toxins that meet the requirements of both the section 351A program and the section 212 program.

Subtitle D—Criminal Penalties Regarding Certain Biological Agents and Toxins

SEC. 231. CRIMINAL PENALTIES.

(a) IN GENERAL.—Section 175b of title 18, United States Code, as added by section 817 of Public Law 107–56, is amended—

(1) by striking ''(a)'' and inserting ''(a)(1)'';

(2) by transferring subsection (c) from the current placement of the subsection and inserting the subsection before subsection (b);

(3) by striking ''(c)'' and inserting ''(2);

(4) by redesignating subsection (b) as subsection (d); and

(5) by inserting before subsection (d) (as so redesignated) the following subsections:

''(b) TRANSFER TO UNREGISTERED PERSON.—

''(1) SELECT AGENTS.—Whoever transfers a select agent to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 351A of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

''(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever transfers a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 212 of such Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

''(c) UNREGISTERED FOR POSSESSION.—

''(1) SELECT AGENTS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulations under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

''(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 for which such person has not obtained a registration required by regulations under section 212(c) of such Act shall be fined under this title, or imprisoned for not more than 5 years, or both.''.

(b) CONFORMING AMENDMENTS.—Chapter 10 of title 18, United States Code, is amended—

(1) in section 175b (as added by section 817 of Public Law 107–56 and amended by subsection (a) of this section)—

(A) in subsection (d)(1), by striking ''The term'' and all that follows through ''does not include'' and inserting the following: ''The term 'select agent' means a biological agent or toxin to which subsection (a) applies. Such term (including for purposes of subsection (a)) does not include''; and

*(B) in the heading for the section, by striking ''**Possession by restricted persons**'' and inserting ''**Select agents; certain other agents**''; and*

(2) in the chapter analysis, in the item relating to section 175b, by striking ''Possession by restricted persons.'' and inserting ''Select agents; certain other agents.''.

(c) TECHNICAL CORRECTIONS.—Chapter 10 of title 18, United States Code, as amended by section 817 of Public Law 107–56 and subsections (a) and (b) of this section, is amended—

(1) in section 175(c), by striking ''protective'' and all that follows and inserting ''protective, bona fide research, or other peaceful purposes.'';

(2) in section 175b—

(A) in subsection (a)(1), by striking ''described in subsection (b)'' and all that follows and inserting the following: ''shall ship or transport in or affecting interstate or foreign commerce, or possess in or affecting interstate or foreign commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not exempted under subsection (h) of section 72.6, or Appendix A of part 72, of title 42, Code of Federal Regulations.''; and

(B) in subsection (d)(3), by striking ''section 1010(a)(3)'' and inserting ''section 101(a)(3)'';

(3) in section 176(a)(1)(A), by striking ''exists by reason of'' and inserting ''pertains to''; and

(4) in section 178—

(A) in paragraph (1), by striking ''means any micro-organism'' and all that follows through ''product, capable of'' and inserting the following: ''means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance, capable of'';

(B) in paragraph (2), by striking ''means the toxic'' and all that follows through ''including—'' and inserting the following: ''means the toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes—''; and

(C) in paragraph (4), by striking ''recombinant molecule,'' and all that follows through ''biotechnology,'' and inserting ''recombinant or synthesized molecule,''.

(d) ADDITIONAL TECHNICAL CORRECTION.—Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking ''section 229F)'' and all that follows through ''section 178)—'' and inserting ''section 229F)—''; and

(2) in subsection (c)(2)(C), by striking ''a disease organism'' and inserting ''a biological

agent, toxin, or vector (as those terms are defined in section 178 of this title)''.

TITLE III—PROTECTING SAFETY AND SECURITY OF FOOD AND DRUG SUPPLY

Subtitle A—Protection of Food Supply

SEC. 301. FOOD SAFETY AND SECURITY STRATEGY.

(a) IN GENERAL.—The President's Council on Food Safety (as established by Executive Order 13100) shall, in consultation with the Secretary of Transportation, the Secretary of the Treasury, other relevant Federal agencies, the food industry, consumer and producer groups, scientific organizations, and the States, develop a crisis communications and education strategy with respect to bioterrorist threats to the food supply. Such strategy shall address threat assessments; technologies and procedures for securing food processing and manufacturing facilities and modes of transportation; response and notification procedures; and risk communications to the public.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of implementing the strategy developed under subsection (a), there are authorized to be appropriated $750,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 302. PROTECTION AGAINST ADULTERATION OF FOOD.

(a) INCREASING INSPECTIONS FOR DETECTION OF ADULTERATION OF FOOD.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by adding at the end the following subsection:

''(h)(1) The Secretary shall give high priority to increasing the number of inspections under this section for the purpose of enabling the Secretary to inspect food offered for import at ports of entry into the United States, with the greatest priority given to inspections to detect the intentional adulteration of food.''.

(b) IMPROVEMENTS TO INFORMATION MANAGEMENT SYSTEMS.—Section 801(h) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a) of this section, is amended by adding at the end the following paragraph:

''(2) The Secretary shall give high priority to making necessary improvements to the information management systems of the Food and Drug Administration that contain information related to foods imported or offered for import into the United States for purposes of improving the ability of the Secretary to allocate resources, detect the intentional adulteration of food, and facilitate the importation of food that is in compliance with this Act.''.

(c) LINKAGES WITH APPROPRIATE PUBLIC ENTITIES.—Section 801(h) of the Federal Food, Drug, and Cosmetic Act, as amended by subsection (b) of this section, is amended by adding at the end the following paragraph:

''(3) The Secretary shall improve linkages with other regulatory agencies of the Federal Government that share responsibility for food safety, and shall with respect to such safety improve linkages with the States and Indian tribes (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).''.

(d) TESTING FOR RAPID DETECTION OF ADULTERATION OF FOOD.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by subsection (a) of this section, is amended by adding at the end the following:

''(i)(1) For use in inspections of food under this section, the Secretary shall provide for research on the development of tests and sampling methodologies—

''(A) whose purpose is to test food in order to rapidly detect the adulteration of the food, with the greatest priority given to detect the intentional adulteration of food; and

''(B) whose results offer significant improvements over the available technology in terms of accuracy, timing, or costs.

''(2) In providing for research under paragraph (1), the Secretary shall give priority to conducting research on the development of tests that are suitable for inspections of food at ports of entry into the United States.

''(3) In providing for research under paragraph (1), the Secretary shall as appropriate coordinate with the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, the Administrator of the Environmental Protection Agency, and the Secretary of Agriculture.

''(4) The Secretary shall annually submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report describing the progress made in research under paragraph (1), including progress regarding paragraph (2).''.

(e) ASSESSMENT OF THREAT OF INTENTIONAL ADULTERATION OF FOOD.—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall ensure that, not later than six months after the date of the enactment of this Act—

(1) the assessment that (as of such date of enactment) is being conducted on the threat of the intentional adulteration of food is completed; and

(2) a report describing the findings of the assessment is submitted to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Health, Education, Labor, and Pensions of the Senate.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section and the amendments made by this section, there are authorized to be appropriated $100,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006, in addition to other authorizations of appropriations that are available for such purpose.

SEC. 303. ADMINISTRATIVE DETENTION.

(a) EXPANDED AUTHORITY.—Section 304 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) is amended by adding at the end the following subsection:

''(h) ADMINISTRATIVE DETENTION OF FOODS.—

''(1) DETENTION AUTHORITY.—

''(A) IN GENERAL.—An officer or qualified employee of the Food and Drug Administration may order the detention, in accordance with this subsection, of any article of food that is found during an inspection, examination, or investigation under this Act conducted by such officer or qualified employee, if the officer or qualified employee has credible evidence or information indicating that such article presents a threat of serious adverse health consequences or death to humans or animals.

''(B) SECRETARY'S APPROVAL.—An article of food may be ordered detained under subparagraph (A) only if the Secretary or an official designated by the Secretary approves the order. An official may not be so designated unless the official is the director of the district under this Act in which the article involved is located, or is an official senior to such director.

''(2) PERIOD OF DETENTION.—An article of food may be detained under paragraph (1) for a reasonable period, not to exceed 20 days, unless a greater period, not to exceed 30 days, is necessary, to enable the Secretary to institute an action under subsection (a) or section 302. The Secretary shall by regulation provide for procedures for instituting such action on an expedited basis with respect to perishable foods.

''(3) SECURITY OF DETAINED ARTICLE.—An order under paragraph (1) with respect to an article of food may require that such article be labeled or marked as detained, and shall require that the article be removed to a secure facility, as appropriate. An article subject to such an order shall not be transferred by any person from the place at which the article is ordered detained, or from the place to which the article is so removed, as the case may be, until released by the Secretary or until the expiration of the detention period applicable under such order, whichever occurs first. This subsection may not be construed as authorizing the delivery of the article pursuant to the execution of a bond while the article is subject to the order, and section 801(b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is subject to the order.

''(4) APPEAL OF DETENTION ORDER.—

''(A) IN GENERAL.—With respect to an article of food ordered detained under paragraph (1), any person who would be entitled to be a claimant for such article if the article were seized under subsection (a) may appeal the order to the Secretary. Within five days after such an appeal is filed, the Secretary, after providing opportunity for an informal hearing, shall confirm or terminate the order involved, and such confirmation by the Secretary shall be considered a final agency action for purposes of section 702 of title 5, United States Code. If during such five-day period the Secretary fails to provide such an opportunity, or to confirm or terminate such order, the order is deemed to be terminated.

''(B) EFFECT OF INSTITUTING COURT ACTION.—The process under subparagraph (A) for the appeal of an order under paragraph (1) terminates if the Secretary institutes an action under subsection (a) or section 302 regarding the article of food involved.''.

(b) PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

''(bb) The transfer of an article of food in violation of an order under section 304(h), or the removal or alteration of any mark or label required by the order to identify the article as detained.''.

(c) TEMPORARY HOLDS AT PORTS OF ENTRY.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 302(d)of this Act, is amended by adding at the end the following:

''(j)(1) If an officer or qualified employee of the Food and Drug Administration has credible evidence or information indicating that an article of food presents a threat of serious adverse health consequences or death to humans or animals, and such officer or qualified employee is unable to inspect, examine, or investigate such article upon the article being offered for import at a port of entry into the United States, the officer or qualified employee shall request the Secretary of Treasury to hold the food at the port of entry for a reasonable period of time, not to exceed 24 hours, for the purpose of enabling the Secretary to inspect, examine, or investigate the article as appropriate.

''(2) The Secretary shall request the Secretary of Treasury to remove an article held pursuant to paragraph (1) to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be. Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held.

''(3) An officer or qualified employee of the Food and Drug Administration may make a request under paragraph (1) only if the Secretary or an official designated by the Secretary approves the request. An official may not be so designated unless the official is the director of the district under this Act in which the article involved is located, or is an official senior to such director.

''(4) With respect to an article of food for which a request under paragraph (1) is made, the Secretary, promptly after the request is made, shall notify the State in which the port of entry involved is located that the request has been made, and as applicable, that such article is being held under this subsection.''.

SEC. 304. DEBARMENT FOR REPEATED OR SERIOUS FOOD IMPORT VIOLATIONS.

(a) DEBARMENT AUTHORITY.—

(1) PERMISSIVE DEBARMENT.—Section 306(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(b)(1)) is amended—

(A) in subparagraph (A), by striking ''or'' after the comma at the end;

(B) in subparagraph (B), by striking the period at the end and inserting '', or''; and

(C) by adding at the end the following subparagraph:

''(C) a person from importing an article of food or offering such an article for import into the United States.'';

(2) AMENDMENT REGARDING DEBARMENT GROUNDS.—Section 306(b)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(b)) is amended—

(A) in paragraph (2), in the matter preceding subparagraph (A), by inserting ''subparagraph (A) or (B) of'' before ''paragraph (1)'';

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following paragraph:

''(3) PERSONS SUBJECT TO PERMISSIVE DEBARMENT; FOOD IMPORTATION.—A person is subject to debarment under paragraph (1)(C) if—

''(A) the person has been convicted of a felony for conduct relating to the importation into the United States of any food; or

''(B) the person has engaged in a pattern of importing or offering for import adulterated food that presents a threat of serious adverse health consequences or death to humans or animals.''.

(b) CONFORMING AMENDMENTS.—Section 306 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a) is amended—

(1) in subsection (a), in the heading for the subsection, by striking ''MANDATORY DEBARMENT.—'' and inserting ''MANDATORY DEBARMENT; CERTAIN DRUG APPLICATIONS.—'';

(2) in subsection (b)—

(A) in the heading for the subsection, by striking ''PERMISSIVE DEBARMENT.—'' and inserting ''PERMISSIVE DEBARMENT; CERTAIN DRUG APPLICATIONS; FOOD IMPORTS.—''; and

(B) in paragraph (2), in the heading for the paragraph, by striking ''PERMISSIVE DEBARMENT.—'' and inserting ''PERMISSIVE DEBARMENT; CERTAIN DRUG APPLICATIONS.—'';

(3) in subsection (c)(2)(A)(iii), by striking ''subsection (b)(2)'' and inserting ''paragraph (2) or (3) of subsection (b)'';

(4) in subsection (d)(3)—

(A) in subparagraph (A)(i), by striking ''or (b)(2)(A)'' and inserting '' or paragraph (2)(A) or (3) of subsection (b)'';

(B) in subparagraph (A)(ii)(II), by inserting ''in applicable cases,'' before ''sufficient audits'';

(C) in subparagraph (B), in each of clauses (i) and (ii), by inserting ''or subsection (b)(3)'' after ''subsection (b)(2)(B)''; and

(D) in subparagraph (B)(ii), by inserting before the period the following: ''or the food importation process, as the case may be''.

(c) EFFECTIVE DATES.—Section 306(l)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(l)(2)) is amended—

(1) in the first sentence—

(A) by striking ''and'' after ''subsection (b)(2),''; and

(B) by inserting '', and subsection (b)(3)(A)'' after ''subsection (b)(2)(B)''; and

(2) in the second sentence, by inserting '', subsection (b)(3)(B),'' after ''subsection (b)(2)(B)''.

(d) PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended by section 303(b) of this Act, is amended by adding at the end the following:

''(cc) The importing or offering for import into the United States of an article of food by, with the assistance of, or at the direction of, a person debarred under section 306(b)(3).''.

(e) IMPORTATION BY DEBARRED PERSONS.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 303(c) of this Act, is amended by adding at the end the following subsection:

''(k)(1) If an article of food is being imported or offered for import into the United States, and the importer, owner, or consignee of the article is a person who has been debarred under section 306(b)(3), such article shall be held at the port of entry for the article, and may not be delivered to such person. Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held. The article shall be removed to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be.

''(2) An article of food held under paragraph (1) may be delivered to a person who is not a debarred person under section 306(b)(3) if such person affirmatively establishes, at the expense of the person, that the article complies with the requirements of this Act, as determined by the Secretary.''.

SEC. 305. REGISTRATION OF FOOD FACILITIES.

(a) IN GENERAL.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

''SEC. 415. REGISTRATION OF FOOD FACILITIES.

''(a) REGISTRATION.—

''(1) IN GENERAL.—The Secretary shall by regulation require that any facility engaged in manufacturing, processing, packing, or holding food for consumption in the United States be registered with the Secretary. To be registered—

''(A) for a domestic facility, the owner, operator, or agent in charge of the facility shall submit a registration to the Secretary; and

''(B) for a foreign facility, the owner, operator, or agent in charge of the facility shall submit a registration to the Secretary and shall include with the registration the name of the United States agent for the facility.

''(2) REGISTRATION.—An entity (referred to in this section as the 'registrant') shall submit a registration under paragraph (1) to the Secretary containing information necessary to notify the Secretary of the name and address of each facility at which, and all trade names under which, the registrant conducts business and, when determined necessary by the Secretary through guidance, the general food category (as identified under section 170.3 of title 21, Code of Federal Regulations) of any food manufactured, processed, packed, or held at such facility. The registrant shall notify the Secretary in a timely manner of changes to such information.

''(3) PROCEDURE.—Upon receipt of a completed registration described in paragraph (1), the Secretary shall notify the registrant of the receipt of such registration and assign a registration number to each registered facility.

''(4) LIST.—The Secretary shall compile and maintain an up-to-date list of facilities that are registered under this section. Such list and any registration documents submitted pursuant to this subsection shall not be subject to disclosure under section 552 of title 5, United States Code. Information derived from such list or registration documents shall not be subject to disclosure under section 552 of title 5, United States Code, to the extent that it discloses the identity or location of a specific registered person.

''(b) FACILITY.—For purposes of this section:

''(1) The term 'facility' includes any factory, warehouse, or establishment (including a factory, warehouse, or establishment of an importer) that manufactures, processes, packs, or holds food. Such term does not include farms; restaurants; other retail food establishments; nonprofit food establishments in which food is prepared for or served directly to the consumer; or fishing vessels (except such vessels engaged in processing as defined in section 123.3(k) of title 21, Code of Federal Regulations).

''(2) The term 'domestic facility' means a facility located in any of the States or Territories.

''(3)(A) The term 'foreign facility' means a facility that manufacturers, processes, packs, or holds food, but only if food from such facility is exported to the United States without further processing or packaging outside the United States.

''(B) A food may not be considered to have undergone further processing or packaging for purposes of subparagraph (A) solely on the basis that labeling was added or that any similar activity of a de minimis nature was carried out with respect to the food.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the Secretary to require an application, review, or licensing process.''.

(b) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331), as amended by section 304(d) of this Act, is amended by adding at the end the following:

''(dd) The failure to register in accordance with section 415.''.

(c) IMPORTATION; FAILURE TO REGISTER.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 304(e) of this Act, is amended by adding at the end the following subsection:

''(l)(1) If an article of food is being imported or offered for import into the United States, and such article is from a foreign facility for which a registration has not been submitted to the Secretary under section 415, such article shall be held at the port of entry for the article, and may not be delivered to the importer, owner, or consignee of the article, until the foreign facility is so registered. Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held. The article shall be removed to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be.''.

(d) ELECTRONIC FILING.—For the purpose of reducing paperwork and reporting burdens, the Secretary of Health and Human Services may provide for, and encourage the use of, electronic methods of submitting to the Secretary registrations required pursuant to this section. In providing for the electronic submission of such registrations, the Secretary shall ensure adequate authentication protocols are used to enable identification of the registrant and validation of the data as appropriate.

(e) RULEMAKING; EFFECTIVE DATE.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed and final regulations for the requirement of registration under section 415 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section). Such requirement of registration takes effect—

(1) upon the effective date of such final regulations; or

(2) upon the expiration of such 18-month period if the final regulations have not been made effective as of the expiration of such period, subject to compliance with the final regulations when the final regulations are made effective.

SEC. 306. MAINTENANCE AND INSPECTION OF RECORDS FOR FOODS.

(a) IN GENERAL.—Chapter IV of the Federal Food, Drug, and Cosmetic Act, as amended by section 305 of this Act, is amended by inserting before section 415 the following section:

''SEC. 414. MAINTENANCE AND INSPECTION OF RECORDS.

''(a) RECORDS INSPECTION.—If the Secretary has a reasonable belief that an article of food is adulterated and presents a threat of serious adverse health consequences or death to humans

or animals, each person (excluding farms and restaurants) who manufactures, processes, packs, distributes, receives, holds, or imports such article shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, upon presentation of appropriate credentials and a written notice to such person, at reasonable times and within reasonable limits and in a reasonable manner, to have access to and copy all records relating to such article that are needed to assist the Secretary in determining whether the food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals. The requirement under the preceding sentence applies to all records relating to the manufacture, processing, packing, distribution, receipt, holding, or importation of such article maintained by or on behalf of such person in any format (including paper and electronic formats) and at any location.

''(b) REGULATIONS CONCERNING RECORDKEEPING.—The Secretary, in consultation and coordination, as appropriate, with other Federal departments and agencies with responsibilities for regulating food safety, may by regulation establish requirements regarding the establishment and maintenance, for not longer than two years, of records by persons (excluding farms and restaurants) who manufacture, process, pack, transport, distribute, receive, hold, or import food, which records are needed by the Secretary for inspection to allow the Secretary to identify the immediate previous sources and the immediate subsequent recipients of food, including its packaging, in order to address credible threats of serious adverse health consequences or death to humans or animals. The Secretary shall take into account the size of a business in promulgating regulations under this section.

''(c) PROTECTION OF SENSITIVE INFORMATION.—The Secretary shall take appropriate measures to ensure that there are in effect effective procedures to prevent the unauthorized disclosure of any trade secret or confidential information that is obtained by the Secretary pursuant to this section.

''(d) LIMITATIONS.—This section shall not be construed—

''(1) to limit the authority of the Secretary to inspect records or to require establishment and maintenance of records under any other provision of this Act;

''(2) to authorize the Secretary to impose any requirements with respect to a food to the extent that it is within the exclusive jurisdiction of the Secretary of Agriculture pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq);

''(3) to have any legal effect on section 552 of title 5, United States Code, or section 1905 of title 18, United States Code; or

''(4) to extend to recipes for food, financial data, pricing data, personnel data, research data, or sales data (other than shipment data regarding sales).''.

(b) FACTORY INSPECTION.—Section 704(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(a)) is amended—

(1) in paragraph (1), by inserting after the first sentence the following new sentence: ''In the case of any person (excluding farms and restaurants) who manufactures, processes, packs, transports, distributes, holds, or imports foods, the inspection shall extend to all records and other information described in section 414 when the Secretary has a reasonable belief that an article of food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals, subject to the limitations established in section 414(d).''; and

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking ''second sentence'' and inserting ''third sentence''.

(c) PROHIBITED ACT.—Section 301 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 331) is amended—

(1) in paragraph (e)—

(A) by striking ''by section 412, 504, or 703'' and inserting ''by section 412, 414, 504, 703, or 704(a)''; and

(B) by striking ''under section 412'' and inserting ''under section 412, 414(b)''; and

(2) in paragraph (j), by inserting ''414,'' after ''412,''.

(d) EXPEDITED RULEMAKING.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall promulgate proposed and final regulations establishing recordkeeping requirements under subsection 414(b) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)).

SEC. 307. PRIOR NOTICE OF IMPORTED FOOD SHIPMENTS.

(a) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 305(c) of this Act, is amended by adding at the end the following subsection:

''(m)(1) In the case of an article of food that is being imported or offered for import into the United States, the Secretary, after consultation with the Secretary of the Treasury, shall by regulation require, for the purpose of enabling such article to be inspected at ports of entry into the United States, the submission to the Secretary of a notice providing the identity of each of the following: The article; the manufacturer and shipper of the article; if known within the specified period of time that notice is required to be provided, the grower of the article; the country from which the article originates; the country from which the article is shipped; and the anticipated port of entry for the article. An article of food imported or offered for import without submission of such notice in accordance with the requirements under this paragraph shall be refused admission into the United States. Nothing in this section may be construed as a limitation on the port of entry for an article of food.

''(2)(A) Regulations under paragraph (1) shall require that a notice under such paragraph be provided by a specified period of time in advance of the time of the importation of the article of food involved or the offering of the food for import, which period shall be no less than the minimum amount of time necessary for the Secretary to receive, review, and appropriately respond to such notification, but may not exceed five days. In determining the specified period of time required under this subparagraph, the Secretary may consider, but is not limited to consideration of, the effect on commerce of such period of time, the locations of the various ports of entry into the United States, the various modes of transportation, the types of food imported into the United States, and any other such consideration. Nothing in the preceding sentence may be construed as a limitation on the obligation of the Secretary to receive, review, and appropriately respond to any notice under paragraph (1).

''(B)(i) If an article of food is being imported or offered for import into the United States and a notice under paragraph (1) is not provided in advance in accordance with the requirements under paragraph (1), such article shall be held at the port of entry for the article, and may not be delivered to the importer, owner, or consignee of the article, until such notice is submitted to the Secretary, and the Secretary examines the notice and determines that the notice is in accordance with the requirements under paragraph (1). Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held. The article shall be removed to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be.

''(ii) In carrying out clause (i) with respect to an article of food, the Secretary shall determine whether there is in the possession of the Secretary any credible evidence or information indicating that such article presents a threat of serious adverse health consequences or death to humans or animals.

''(3)(A) This subsection may not be construed as limiting the authority of the Secretary to obtain information under any other provision of this Act.

''(B) This subsection may not be construed as authorizing the Secretary to impose any requirements with respect to a food to the extent that it is within the exclusive jurisdiction of the Secretary of Agriculture pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq).''.

(b) PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended by section 305(b) of this Act, is amended by adding at the end the following:

''(ee) The importing or offering for import into the United States of an article of food in violation of the requirements under section 801(m).''.

(c) RULEMAKING; EFFECTIVE DATE.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed and final regulations for the requirement of providing notice in accordance with section 801(m) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section). Such requirement of notification takes effect—

(A) upon the effective date of such final regulations; or

(B) upon the expiration of such 18-month period if the final regulations have not been made effective as of the expiration of such period, subject to compliance with the final regulations when the final regulations are made effective.

(2) DEFAULT; MINIMUM PERIOD OF ADVANCE NOTICE.—If under paragraph (1) the requirement for providing notice in accordance with section 801(m) of the Federal Food, Drug, and Cosmetic Act takes effect without final regulations having been made effective, then for purposes of such requirement, the specified period of time that the notice is required to be made in advance of the time of the importation of the article of food involved or the offering of the food for import shall be not fewer than eight hours and not more than five days, which shall remain in effect until the final regulations are made effective.

SEC. 308. AUTHORITY TO MARK ARTICLES REFUSED ADMISSION INTO UNITED STATES.

(a) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)), as amended by section 307(a) of this Act, is amended by adding at the end the following:

''(n)(1) If a food has been refused admission under subsection (a), other than such a food that is required to be destroyed, the Secretary may require the owner or consignee of the food to affix to the container of the food a label that clearly and conspicuously bears the statement: 'UNITED STATES: REFUSED ENTRY'.

''(2) All expenses in connection with affixing a label under paragraph (1) shall be paid by the owner or consignee of the food involved, and in default of such payment, shall constitute a lien against future importations made by such owner or consignee.

''(3) A requirement under paragraph (1) remains in effect until the Secretary determines that the food involved has been brought into compliance with this Act.''.

(b) MISBRANDED FOODS.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

''(v) If—

''(1) it fails to bear a label required by the Secretary under section 801(n)(1) (relating to food refused admission into the United States);

''(2) the Secretary finds that the food presents a threat of serious adverse health consequences or death to humans or animals; and

''(3) upon or after notifying the owner or consignee involved that the label is required under section 801, the Secretary informs the owner or consignee that the food presents such a threat.''.

(c) RULE OF CONSTRUCTION.—With respect to articles of food that are imported or offered for import into the United States, nothing in this section shall be construed to limit the authority of the Secretary of Health and Human Services or the Secretary of the Treasury to require the marking of refused articles of food under any other provision of law.

SEC. 309. PROHIBITION AGAINST PORT SHOPPING.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

''(h) If it is an article of food imported or offered for import into the United States and the article of food has previously been refused admission under section 801(a), unless the person reoffering the article affirmatively establishes, at the expense of the owner or consignee of the article, that the article complies with the applicable requirements of this Act, as determined by the Secretary.''.

SEC. 310. NOTICES TO STATES REGARDING IMPORTED FOOD.

Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end the following section:

''SEC. 908. NOTICES TO STATES REGARDING IMPORTED FOOD.

''(a) IN GENERAL.—If the Secretary has credible evidence or information indicating that a shipment of imported food or portion thereof presents a threat of serious adverse health consequences or death to humans or animals, the Secretary shall provide notice regarding such threat to the States in which the food is held or will be held, and to the States in which the manufacturer, packer, or distributor of the food is located, to the extent that the Secretary has knowledge of which States are so involved. In providing notice to a State, the Secretary shall request the State to take such action as the State considers appropriate, if any, to protect the public health regarding the food involved.

''(b) RULE OF CONSTRUCTION.—Subsection (a) may not be construed as limiting the authority of the Secretary with respect to food under any other provision of this Act.''.

SEC. 311. GRANTS TO STATES FOR INSPECTIONS.

Chapter IX of the Federal Food, Drug and Cosmetic Act, as amended by section 310 of this Act, is amended by adding at the end the following section:

''SEC. 909. GRANTS TO STATES FOR INSPECTIONS.

''(a) IN GENERAL.—The Secretary is authorized to make grants to States, territories, and Indian tribes (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) that undertake examinations, inspections, and investigations, and related activities under section 702. The funds provided under such grants shall only be available for the costs of conducting such examinations, inspections, investigations, and related activities.

''(b) NOTICES REGARDING ADULTERATED IMPORTED FOOD.—The Secretary may make grants to the States for the purpose of assisting the States with the costs of taking appropriate action to protect the public health in response to notification under section 908, including planning and otherwise preparing to take such action.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $10,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006.''.

SEC. 312. SURVEILLANCE AND INFORMATION GRANTS AND AUTHORITIES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 317P the following:

''SEC. 317R. FOOD SAFETY GRANTS.

''(a) IN GENERAL.—The Secretary may award grants to States and Indian tribes (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) to expand participation in networks to enhance Federal, State, and local food safety efforts, including meeting the costs of establishing and maintaining the food safety surveillance, technical, and laboratory capacity needed for such participation.

''(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $19,500,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006.''.

SEC. 313. SURVEILLANCE OF ZOONOTIC DISEASES.

The Secretary of Health and Human Services, through the Commissioner of Food and Drugs and the Director of the Centers for Disease Control and Prevention, and the Secretary of Agriculture shall coordinate the surveillance of zoonotic diseases.

SEC. 314. AUTHORITY TO COMMISSION OTHER FEDERAL OFFICIALS TO CONDUCT INSPECTIONS.

Section 702(a) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 372(a)) is amended—

(1) by striking ''(a)'' and inserting ''(a)(1)'';

(2) by striking ''In the case of food packed'' and inserting the following:

''(3) In the case of food packed'';

(3) by striking ''For the purposes of this subsection'' and inserting the following:

''(4) For the purposes of this subsection,''; and

(4) by inserting after paragraph (1) (as designated by paragraph (1) of this section) the following paragraph:

''(2)(A) In addition to the authority established in paragraph (1), the Secretary, pursuant to a memorandum of understanding between the Secretary and the head of another Federal department or agency, is authorized to conduct examinations and investigations for the purposes of this Act through the officers and employees of such other department or agency, subject to subparagraph (B). Such a memorandum shall include provisions to ensure adequate training of such officers and employees to conduct the examinations and investigations. The memorandum of understanding shall contain provisions regarding reimbursement. Such provisions may, at the sole discretion of the head of the other department or agency, require reimbursement, in whole or in part, from the Secretary for the examinations or investigations performed under this section by the officers or employees of the other department or agency.

''(B) A memorandum of understanding under subparagraph (A) between the Secretary and another Federal department or agency is effective only in the case of examinations or inspections at facilities or other locations that are jointly regulated by the Secretary and such department or agency.

''(C) For any fiscal year in which the Secretary and the head of another Federal department or agency carries out one or more examinations or inspections under a memorandum of understanding under subparagraph (A), the Secretary and the head of such department or agency shall with respect to their respective departments or agencies submit to the committees of jurisdiction (authorizing and appropriating) in the House of Representatives and the Senate a report that provides, for such year—

''(i) the number of officers or employees that carried out one or more programs, projects, or activities under such memorandum;

''(ii) the number of additional articles that were inspected or examined as a result of such memorandum; and

''(iii) the number of additional examinations or investigations that were carried out pursuant to such memorandum.''.

SEC. 315. RULE OF CONSTRUCTION.

Nothing in this title, or an amendment made by this title, shall be construed to alter the jurisdiction between the Secretaries of Agriculture and of Health and Human Services, under applicable statutes and regulations.

Subtitle B—Protection of Drug Supply

SEC. 321. ANNUAL REGISTRATION OF FOREIGN MANUFACTURERS; SHIPPING INFORMATION; DRUG AND DEVICE LISTING.

(a) ANNUAL REGISTRATION; LISTING.—Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) is amended—

(1) in subsection (i)(1)—

(A) by striking ''Any establishment'' and inserting ''On or before December 31 of each year, any establishment''; and

(B) by striking ''shall register'' and all that follows and inserting the following: ''shall, through electronic means in accordance with the criteria of the Secretary, register with the Secretary the name and place of business of the establishment, the name of the United States agent for the establishment, the name of each importer of such drug or device in the United States that is known to the establishment, and the name of each person who imports or offers for import such drug or device to the United States for purposes of importation.''; and

(2) in subsection (j)(1), in the first sentence, by striking ''or (d)'' and inserting ''(d), or (i)''.

(b) IMPORTATION; STATEMENT REGARDING REGISTRATION OF MANUFACTURER.—

(1) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 308(a) of this Act, is amended by adding at the end the following subsection:

''(o) If an article that is a drug or device is being imported or offered for import into the United States, and the importer, owner, or consignee of such article does not, at the time of offering the article for import, submit to the Secretary a statement that identifies the registration under section 510(i) of each establishment that with respect to such article is required under such section to register with the Secretary, the article may be refused admission. If the article is refused admission for failure to submit such a statement, the article shall be held at the port of entry for the article, and may not be delivered to the importer, owner, or consignee of the article, until such a statement is submitted to the Secretary. Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held. The article shall be removed to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be.''.

(2) PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended by section 307(b) of this Act, is amended by adding at the end the following:

''(ff) The importing or offering for import into the United States of a drug or device with respect to which there is a failure to comply with a request of the Secretary to submit to the Secretary a statement under section 801(o).''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act.

SEC. 322. REQUIREMENT OF ADDITIONAL INFORMATION REGARDING IMPORT COMPONENTS INTENDED FOR USE IN EXPORT PRODUCTS.

(a) IN GENERAL.—Section 801(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(d)(3)) is amended to read as follows:

''(3)(A) Subject to subparagraph (B), no component of a drug, no component part or accessory of a device, or other article of device requiring further processing, which is ready or suitable for use for health-related purposes, and no article of a food additive, color additive, or dietary supplement, including a product in bulk form, shall be excluded from importation into the United States under subsection (a) if each of the following conditions is met:

''(i) The importer of such article of a drug or device or importer of such article of a food additive, color additive, or dietary supplement submits to the Secretary, at the time of initial importation, a statement in accordance with the following:

''(I) Such statement provides that such article is intended to be further processed by the initial owner or consignee, or incorporated by the initial owner or consignee, into a drug, biological product, device, food, food additive, color additive, or dietary supplement that will be exported by the initial owner or consignee from the United States in accordance with subsection (e) or section 802, or with section 351(h) of the Public Health Service Act.

''(II) The statement identifies the manufacturer of such article and each processor, packer, distributor, or other entity that had possession of the article in the chain of possession of the article from the manufacturer to such importer of the article.

''(III) The statement is accompanied by such certificates of analysis as are necessary to identify such article, unless the article is a device or is an article described in paragraph (4).

''(ii) At the time of initial importation and before the delivery of such article to the importer or the initial owner or consignee, such owner or consignee executes a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury.

''(iii) Such article is used and exported by the initial owner or consignee in accordance with the intent described under clause (i)(I), except for any portions of the article that are destroyed.

''(iv) The initial owner or consignee maintains records on the use or destruction of such article or portions thereof, as the case may be, and submits to the Secretary any such records requested by the Secretary.

''(v) Upon request of the Secretary, the initial owner or consignee submits a report that provides an accounting of the exportation or destruction of such article or portions thereof, and the manner in which such owner or consignee complied with the requirements of this subparagraph.

''(B) Notwithstanding subparagraph (A), the Secretary may refuse admission to an article that otherwise would be imported into the United States under such subparagraph if the Secretary determines that there is credible evidence or information indicating that such article is not intended to be further processed by the initial owner or consignee, or incorporated by the initial owner or consignee, into a drug, biological product, device, food, food additive, color additive, or dietary supplement that will be exported by the initial owner or consignee from the United States in accordance with subsection (e) or section 802, or with section 351(h) of the Public Health Service Act.

''(C) This section may not be construed as affecting the responsibility of the Secretary to ensure that articles imported into the United States under authority of subparagraph (A) meet each of the conditions established in such subparagraph for importation.''.

(b) PROHIBITED ACT.—Section 301(w) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(w)) is amended to read as follows:

''(w) The making of a knowingly false statement in any statement, certificate of analysis, record, or report required or requested under section 801(d)(3); the failure to submit a certificate of analysis as required under such section; the failure to maintain records or to submit records or reports as required by such section; the release into interstate commerce of any article or portion thereof imported into the United States under such section or any finished product made from such article or portion, except for export in accordance with section 801(e) or 802, or with section 351(h) of the Public Health Service Act; or the failure to so export or to destroy such an article or portions thereof, or such a finished product.''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act.

Subtitle C—General Provisions Relating to Upgrade of Agricultural Security

SEC. 331. EXPANSION OF ANIMAL AND PLANT HEALTH INSPECTION SERVICE ACTIVITIES.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the ''Secretary'') may utilize existing authorities to give high priority to enhancing and expanding the capacity of the Animal and Plant Health Inspection Service to conduct activities to—

(1) increase the inspection capacity of the Service at international points of origin;

(2) improve surveillance at ports of entry and customs;

(3) enhance methods of protecting against the introduction of plant and animal disease organisms by terrorists;

(4) develop new and improve existing strategies and technologies for dealing with intentional outbreaks of plant and animal disease arising from acts of terrorism or from unintentional introduction, including—

(A) establishing cooperative agreements among Veterinary Services of the Animal and Plant Health Inspection Service, State animal health commissions and regulatory agencies for livestock and poultry health, and private veterinary practitioners to enhance the preparedness and ability of Veterinary Services and the commissions and agencies to respond to outbreaks of such animal diseases; and

(B) strengthening planning and coordination with State and local agencies, including—

(i) State animal health commissions and regulatory agencies for livestock and poultry health; and

(ii) State agriculture departments; and

(5) otherwise improve the capacity of the Service to protect against the threat of bioterrorism.

(b) AUTOMATED RECORDKEEPING SYSTEM.—The Administrator of the Animal and Plant Health Inspection Service may implement a central automated recordkeeping system to provide for the reliable tracking of the status of animal and plant shipments, including those shipments on hold at ports of entry and customs. The Secretary shall ensure that such a system shall be fully accessible to or fully integrated with the Food Safety Inspection Service.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $30,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 332. EXPANSION OF FOOD SAFETY INSPECTION SERVICE ACTIVITIES.

(a) IN GENERAL.—The Secretary of Agriculture may utilize existing authorities to give high priority to enhancing and expanding the capacity of the Food Safety Inspection Service to conduct activities to—

(1) enhance the ability of the Service to inspect and ensure the safety and wholesomeness of meat and poultry products;

(2) improve the capacity of the Service to inspect international meat and meat products, poultry and poultry products, and egg products at points of origin and at ports of entry;

(3) strengthen the ability of the Service to collaborate with relevant agencies within the Department of Agriculture and with other entities in the Federal Government, the States, and Indian tribes (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) through the sharing of information and technology; and

(4) otherwise expand the capacity of the Service to protect against the threat of bioterrorism.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $15,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 333. BIOSECURITY UPGRADES AT THE DEPARTMENT OF AGRICULTURE.

There is authorized to be appropriated for fiscal year 2002, $180,000,000 for the purpose of enabling the Agricultural Research Service to conduct building upgrades to modernize existing facilities, of which (1) $100,000,000 shall be allocated for renovation, updating, and expansion of the Biosafety Level 3 laboratory and animal research facilities at the Plum Island Animal Disease Center (Greenport, New York), and of which (2) $80,000,000 shall be allocated for the Agricultural Research Service/Animal and Plant Health Inspection Service facility in Ames, Iowa. There are authorized to be appropriated such sums as may be necessary for fiscal years 2003 through 2006 for the purpose described in the preceding sentence, for the planning and design of an Agricultural Research Service biocontainment laboratory for poultry research in Athens, Georgia, and for the planning, updating, and renovation of the Arthropod-Borne Animal Disease Laboratory in Laramie, Wyoming.

SEC. 334. AGRICULTURAL BIOSECURITY.

(a) SECURITY AT COLLEGES AND UNIVERSITIES.—

(1) GRANTS.—The Secretary of Agriculture (referred to in this section as the ''Secretary'') may award grants to covered entities to review security standards and practices at their facilities in order to protect against bioterrorist attacks.

(2) COVERED ENTITIES.—Covered entities under this subsection are colleges or universities that—

(A) are colleges or universities as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103); and

(B) have programs in food and agricultural sciences, as defined in such section.

(3) LIMITATION.—Each individual covered entity may be awarded one grant under paragraph (1), the amount of which shall not exceed $50,000.

(4) CONTRACT AUTHORITY.—Colleges and universities receiving grants under paragraph (1) may use such grants to enter into contracts with independent private organizations with established and demonstrated security expertise to conduct the security reviews specified in such paragraph.

(b) GUIDELINES FOR AGRICULTURAL BIOSECURITY.—

(1) IN GENERAL.—The Secretary may award grants to associations of food producers or consortia of such associations for the development and implementation of educational programs to improve biosecurity on farms in order to ensure the security of farm facilities against potential bioterrorist attacks.

(2) LIMITATION.—Each individual association eligible under paragraph (1) may be awarded one grant under such paragraph, the amount of which shall not exceed $100,000. Each consortium eligible under paragraph (1) may be awarded one grant under such paragraph, the amount of which shall not exceed $100,000 per association participating in the consortium.

(3) CONTRACT AUTHORITY.—Associations of food producers receiving grants under paragraph (1) may use such grants to enter into contracts with independent private organizations with established and demonstrated expertise in biosecurity to assist in the development and implementation of educational programs to improve biosecurity specified in such paragraph.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each fiscal year.

SEC. 335. AGRICULTURAL BIOTERRORISM RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the ''Secretary'') may utilize existing research authorities and research programs to protect the food supply of the United States by conducting and supporting research activities to—

(1) enhance the capability of the Secretary to respond in a timely manner to emerging or existing bioterrorist threats to the food and agricultural system of the United States;

(2) develop new and continue partnerships with institutions of higher education and other institutions to help form stable, long-term programs to enhance the biosecurity and food safety of the United States, including the coordination of the development, implementation, and enhancement of diverse capabilities for addressing threats to the nation's agricultural economy and food supply, with special emphasis on planning, training, outreach, and research activities related to vulnerability analyses, incident response, detection, and prevention technologies;

(3) strengthen coordination with the intelligence community to better identify research needs and evaluate materials or information acquired by the intelligence community relating to potential threats to United States agriculture;

(4) expand the involvement of the Secretary with international organizations dealing with plant and animal disease control;

(5) continue research to develop rapid detection field test kits to detect biological threats to plants and animals and to provide such test kits to State and local agencies preparing for or responding to bioterrorism;

(6) develop an agricultural bioterrorism early warning surveillance system through enhancing the capacity of and coordination between State veterinary diagnostic laboratories, Federal and State agricultural research facilities, and public health agencies; and

(7) otherwise improve the capacity of the Secretary to protect against the threat of bioterrorism.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $190,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 336. ANIMAL ENTERPRISE TERRORISM PENALTIES.

(a) IN GENERAL.—Section 43(a) of title 18, United States Code, is amended to read as follows:

''(a) OFFENSE.—Whoever—

''(1) travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility in interstate or foreign commerce for the purpose of causing physical disruption to the functioning of an animal enterprise; and

''(2) intentionally damages or causes the loss of any property (including animals or records) used by the animal enterprise, or conspires to do so,

shall be punished as provided for in subsection (b).''.

(b) PENALTIES.—Section 43(b) of title 18, United States Code, is amended to read as follows:

''(b) PENALTIES.—

''(1) ECONOMIC DAMAGE.—Any person who, in the course of a violation of subsection (a), causes economic damage not exceeding $10,000 to an animal enterprise shall be fined under this title or imprisoned not more than 6 months, or both.

''(2) MAJOR ECONOMIC DAMAGE.—Any person who, in the course of a violation of subsection (a), causes economic damage exceeding $10,000 to an animal enterprise shall be fined under this title or imprisoned not more than 3 years, or both.

''(3) SERIOUS BODILY INJURY.—Any person who, in the course of a violation of subsection (a), causes serious bodily injury to another individual shall be fined under this title or imprisoned not more than 20 years, or both.

''(4) DEATH.—Any person who, in the course of a violation of subsection (a), causes the death of an individual shall be fined under this title and imprisoned for life or for any term of years.''.

(c) RESTITUTION.—Section 43(c) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) for any other economic damage resulting from the offense.''.

TITLE IV—DRINKING WATER SECURITY AND SAFETY

SEC. 401. TERRORIST AND OTHER INTENTIONAL ACTS.

The Safe Drinking Water Act (title XIV of the Public Health Service Act) is amended by inserting the following new section after section 1432:

''SEC. 1433. TERRORIST AND OTHER INTENTIONAL ACTS.

''(a) VULNERABILITY ASSESSMENTS.—(1) Each community water system serving a population of greater than 3,300 persons shall conduct an assessment of the vulnerability of its system to a terrorist attack or other intentional acts intended to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water. The vulnerability assessment shall include, but not be limited to, a review of pipes and constructed conveyances, physical barriers, water collection, pretreatment, treatment, storage and distribution facilities, electronic, computer or other automated systems which are utilized by the public water system, the use, storage, or handling of various chemicals, and the operation and maintenance of such system. The Administrator, not later than August 1, 2002, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall provide baseline information to community water systems required to conduct vulnerability assessments regarding which kinds of terrorist attacks or other intentional acts are the probable threats to—

''(A) substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water; or

''(B) otherwise present significant public health concerns.

''(2) Each community water system referred to in paragraph (1) shall certify to the Administrator that the system has conducted an assessment complying with paragraph (1) and shall submit to the Administrator a written copy of the assessment. Such certification and submission shall be made prior to:

''(A) March 31, 2003, in the case of systems serving a population of 100,000 or more.

''(B) December 31, 2003, in the case of systems serving a population of 50,000 or more but less than 100,000.

''(C) June 30, 2004, in the case of systems serving a population greater than 3,300 but less than 50,000.

''(3) Except for information contained in a certification under this subsection identifying the system submitting the certification and the date of the certification, all information provided to the Administrator under this subsection and all information derived therefrom shall be exempt from disclosure under section 552 of title 5 of the United States Code.

''(4) No community water system shall be required under State or local law to provide an assessment described in this section to any State, regional, or local governmental entity solely by reason of the requirement set forth in paragraph (2) that the system submit such assessment to the Administrator.

''(5) Not later than November 30, 2002, the Administrator, in consultation with appropriate Federal law enforcement and intelligence officials, shall develop such protocols as may be necessary to protect the copies of the assessments required to be submitted under this subsection (and the information contained therein) from unauthorized disclosure. Such protocols shall ensure that—

''(A) each copy of such assessment, and all information contained in or derived from the assessment, is kept in a secure location;

''(B) only individuals designated by the Administrator may have access to the copies of the assessments; and

''(C) no copy of an assessment, or part of an assessment, or information contained in or derived from an assessment shall be available to anyone other than an individual designated by the Administrator.

At the earliest possible time prior to November 30, 2002, the Administrator shall complete the development of such protocols for the purpose of having them in place prior to receiving any vulnerability assessments from community water systems under this subsection.

''(6)(A) Except as provided in subparagraph (B), any individual referred to in paragraph (5)(B) who acquires the assessment submitted under paragraph (2), or any reproduction of such assessment, or any information derived from such assessment, and who knowingly or recklessly reveals such assessment, reproduction, or information other than—

''(i) to an individual designated by the Administrator under paragraph (5),

''(ii) for purposes of section 1445 or for actions under section 1431, or

''(iii) for use in any administrative or judicial proceeding to impose a penalty for failure to comply with this section,

shall upon conviction be imprisoned for not more than one year or fined in accordance with the provisions of chapter 227 of title 18, United States Code, applicable to class A misdemeanors, or both, and shall be removed from Federal office or employment.

''(B) Notwithstanding subparagraph (A), an individual referred to in paragraph (5)(B) who is an officer or employee of the United States may discuss the contents of a vulnerability assessment submitted under this section with a State or local official.

''(7) Nothing in this section authorizes any person to withhold any information from Congress or from any committee or subcommittee of Congress.

''(b) EMERGENCY RESPONSE PLAN.—Each community water system serving a population greater than 3,300 shall prepare or revise, where necessary, an emergency response plan that incorporates the results of vulnerability assessments that have been completed. Each such community water system shall certify to the Administrator, as soon as reasonably possible after the enactment of this section, but not later than 6 months after the completion of the vulnerability assessment under subsection (a), that the system has completed such plan. The emergency response plan shall include, but not be limited to, plans, procedures, and identification of equipment that can be implemented or utilized in the event of a terrorist or other intentional attack on the public water system. The emergency response plan shall also include actions, procedures, and identification of equipment which can obviate or significantly lessen the impact of terrorist attacks or other intentional actions on the public health and the safety and supply of drinking water provided to communities and individuals. Community water systems shall, to the extent possible, coordinate with existing Local Emergency Planning Committees established under the Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11001, et seq.) when preparing or revising an emergency response plan under this subsection.

''(c) RECORD MAINTENANCE.—Each community water system shall maintain a copy of the emergency response plan completed pursuant to subsection (b) for 5 years after such plan has been certified to the Administrator under this section.

''(d) GUIDANCE TO SMALL PUBLIC WATER SYSTEMS.—The Administrator shall provide guidance to community water systems serving a population of less than 3,300 persons on how to conduct vulnerability assessments, prepare emergency response plans, and address threats from terrorist attacks or other intentional actions designed to disrupt the provision of safe drinking water or significantly affect the public health or significantly affect the safety or supply of drinking water provided to communities and individuals.

''(e) FUNDING.—(1) There are authorized to be appropriated to carry out this section not more than $160,000,000 for the fiscal year 2002 and such sums as may be necessary for the fiscal years 2003 through 2005.

''(2) The Administrator, in coordination with State and local governments, may use funds made available under paragraph (1) to provide financial assistance to community water systems for purposes of compliance with the requirements of subsections (a) and (b) and to community water systems for expenses and contracts designed to address basic security enhancements of critical importance and significant threats to public health and the supply of drinking water as determined by a vulnerability assessment conducted under subsection (a). Such basic security enhancements may include, but shall not be limited to the following:

''(A) the purchase and installation of equipment for detection of intruders;

''(B) the purchase and installation of fencing, gating, lighting, or security cameras;

''(C) the tamper-proofing of manhole covers, fire hydrants, and valve boxes;

''(D) the rekeying of doors and locks;

''(E) improvements to electronic, computer, or other automated systems and remote security systems;

''(F) participation in training programs, and the purchase of training manuals and guidance materials, relating to security against terrorist attacks;

''(G) improvements in the use, storage, or handling of various chemicals; and

''(H) security screening of employees or contractor support services.

Funding under this subsection for basic security enhancements shall not include expenditures for personnel costs, or monitoring, operation, or maintenance of facilities, equipment, or systems.

''(3) The Administrator may use not more than $5,000,000 from the funds made available under paragraph (1) to make grants to community water systems to assist in responding to and alleviating any vulnerability to a terrorist attack or other intentional acts intended to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water (including sources of water for such systems) which the Administrator determines to present an immediate and urgent security need.

''(4) The Administrator may use not more than $5,000,000 from the funds made available under paragraph (1) to make grants to community water systems serving a population of less than 3,300 persons for activities and projects undertaken in accordance with the guidance provided to such systems under subsection (d).

SEC. 402. OTHER SAFE DRINKING WATER ACT AMENDMENTS.

The Safe Drinking Water Act (title XIV of the Public Health Service Act) is amended by inserting the following new sections after section 1433 (as added by section 401 of this Act):

''SEC. 1434. CONTAMINANT PREVENTION, DETECTION AND RESPONSE.

''(a) IN GENERAL.—The Administrator, in consultation with the Centers for Disease Control and, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall review (or enter into contracts or cooperative agreements to provide for a review of) current and future methods to prevent, detect and respond to the intentional introduction of chemical, biological or radiological contaminants into community water systems and source water for community water systems, including each of the following:

''(1) Methods, means and equipment, including real time monitoring systems, designed to monitor and detect various levels of chemical, biological, and radiological contaminants or indicators of contaminants and reduce the likelihood that such contaminants can be successfully introduced into public water systems and source water intended to be used for drinking water.

''(2) Methods and means to provide sufficient notice to operators of public water systems, and individuals served by such systems, of the introduction of chemical, biological or radiological contaminants and the possible effect of such introduction on public health and the safety and supply of drinking water.

''(3) Methods and means for developing educational and awareness programs for community water systems.

''(4) Procedures and equipment necessary to prevent the flow of contaminated drinking water to individuals served by public water systems.

''(5) Methods, means, and equipment which could negate or mitigate deleterious effects on public health and the safety and supply caused by the introduction of contaminants into water intended to be used for drinking water, including an examination of the effectiveness of various drinking water technologies in removing, inactivating, or neutralizing biological, chemical, and radiological contaminants.

''(6) Biomedical research into the short-term and long-term impact on public health of various chemical, biological and radiological contaminants that may be introduced into public water systems through terrorist or other intentional acts.

''(b) FUNDING.—For the authorization of appropriations to carry out this section, see section 1435(e).

''SEC. 1435. SUPPLY DISRUPTION PREVENTION, DETECTION AND RESPONSE.

''(a) DISRUPTION OF SUPPLY OR SAFETY.—The Administrator, in coordination with the appropriate departments and agencies of the Federal Government, shall review (or enter into contracts or cooperative agreements to provide for a review of) methods and means by which terrorists or other individuals or groups could disrupt the supply of safe drinking water or take other actions against water collection, pretreatment, treatment, storage and distribution facilities which could render such water significantly less safe for human consumption, including each of the following:

''(1) Methods and means by which pipes and other constructed conveyances utilized in public water systems could be destroyed or otherwise prevented from providing adequate supplies of drinking water meeting applicable public health standards.

''(2) Methods and means by which collection, pretreatment, treatment, storage and distribution facilities utilized or used in connection with public water systems and collection and pretreatment storage facilities used in connection with public water systems could be destroyed or otherwise prevented from providing adequate supplies of drinking water meeting applicable public health standards.

''(3) Methods and means by which pipes, constructed conveyances, collection, pretreatment, treatment, storage and distribution systems that are utilized in connection with public water systems could be altered or affected so as to be subject to cross-contamination of drinking water supplies.

''(4) Methods and means by which pipes, constructed conveyances, collection, pretreatment, treatment, storage and distribution systems that are utilized in connection with public water systems could be reasonably protected from terrorist attacks or other acts intended to disrupt the supply or affect the safety of drinking water.

''(5) Methods and means by which information systems, including process controls and supervisory control and data acquisition and cyber systems at community water systems could be disrupted by terrorists or other groups.

''(b) ALTERNATIVE SOURCES.—The review under this section shall also include a review of the methods and means by which alternative supplies of drinking water could be provided in the event of the destruction, impairment or contamination of public water systems.

''(c) REQUIREMENTS AND CONSIDERATIONS.—In carrying out this section and section 1434—

''(1) the Administrator shall ensure that reviews carried out under this section reflect the needs of community water systems of various sizes and various geographic areas of the United States; and

''(2) the Administrator may consider the vulnerability of, or potential for forced interruption of service for, a region or service area, including community water systems that provide service to the National Capital area.

''(d) INFORMATION SHARING.—As soon as practicable after reviews carried out under this section or section 1434 have been evaluated, the Administrator shall disseminate, as appropriate as determined by the Administrator, to community water systems information on the results of the project through the Information Sharing and Analysis Center, or other appropriate means.

''(e) FUNDING.—There are authorized to be appropriated to carry out this section and section 1434 not more than $15,000,000 for the fiscal year 2002 and such sums as may be necessary for the fiscal years 2003 through 2005.''.

SEC. 403. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

The Safe Drinking Water Act is amended as follows:

(1) Section 1414(i)(1) is amended by inserting ''1433'' after ''1417''.

(2) Section 1431 is amended by inserting in the first sentence after ''drinking water'' the following: '', or that there is a threatened or potential terrorist attack (or other intentional act designed to disrupt the provision of safe drinking water or to impact adversely the safety of drinking water supplied to communities and individuals), which''.

(3) Section 1432 is amended as follows:

(A) By striking ''5 years'' in subsection (a) and inserting ''20 years''.

(B) By striking ''3 years'' in subsection (b) and inserting ''10 years''.

(C) By striking ''$50,000'' in subsection (c) and inserting ''$1,000,000''.

(D) By striking ''$20,000'' in subsection (c) and inserting ''$100,000''.

(4) Section 1442 is amended as follows:

(A) By striking ''this subparagraph'' in subsection (b) and inserting ''this subsection''.

(B) By amending subsection (d) to read as follows:

''(d) There are authorized to be appropriated to carry out subsection (b) not more than $35,000,000 for the fiscal year 2002 and such sums as may be necessary for each fiscal year thereafter.''.

TITLE V—ADDITIONAL PROVISIONS

Subtitle A—Prescription Drug User Fees

SEC. 501. SHORT TITLE.

This subtitle may be cited as the ''Prescription Drug User Fee Amendments of 2002''.

SEC. 502. FINDINGS.

The Congress finds that—

(1) prompt approval of safe and effective new drugs and other therapies is critical to the improvement of the public health so that patients

may enjoy the benefits provided by these therapies to treat and prevent illness and disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for the review of human drug applications and the assurance of drug safety;

(3) the provisions added by the Prescription Drug User Fee Act of 1992, as amended by the Food and Drug Administration Modernization Act of 1997, have been successful in substantially reducing review times for human drug applications and should be—

(A) reauthorized for an additional 5 years, with certain technical improvements; and

(B) carried out by the Food and Drug Administration with new commitments to implement more ambitious and comprehensive improvements in regulatory processes of the Food and Drug Administration, including—

(i) strengthening and improving the review and monitoring of drug safety;

(ii) considering greater interaction between the agency and sponsors during the review of drugs and biologics intended to treat serious diseases and life-threatening diseases; and

(iii) developing principles for improving first-cycle reviews; and

(4) the fees authorized by amendments made in this subtitle will be dedicated towards expediting the drug development process and the process for the review of human drug applications as set forth in the goals identified for purposes of part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the chairman of the Committee on Energy and Commerce of the House of Representatives and the chairman of the Committee on Health, Education, Labor and Pensions of the Senate, as set forth in the Congressional Record.

SEC. 503. DEFINITIONS.

Section 735 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g) is amended—

(1) in paragraph (1), in the matter after and below subparagraph (C), by striking ''licensure, as described in subparagraph (D)'' and inserting ''licensure, as described in subparagraph (C)'';

(2) in paragraph (3)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period and inserting '', and'';

(C) by inserting after subparagraph (B) the following subparagraph:

''(C) which is on the list of products described in section 505(j)(7)(A) or is on a list created and maintained by the Secretary of products approved under human drug applications under section 351 of the Public Health Service Act.''; and

(D) in the matter after and below subparagraph (C) (as added by subparagraph (C) of this paragraph), by striking ''Service Act,'' and all that follows through ''biological product'' and inserting the following: ''Service Act. Such term does not include a biological product'';

(3) in paragraph (6), by adding at the end the following subparagraph:

''(F) In the case of drugs approved after October 1, 2002, under human drug applications or supplements: collecting, developing, and reviewing safety information on the drugs, including adverse event reports, during a period of time after approval of such applications or supplements, not to exceed three years.''; and

(4) in paragraph (8)—

(A) by striking the matter after and below subparagraph (B);

(B) by striking subparagraph (B);

(C) by striking ''is the lower of'' and all that follows through ''Consumer Price Index'' and inserting ''is the Consumer Price Index''; and

(D) by striking ''1997, or'' and inserting ''1997.''.

SEC. 504. AUTHORITY TO ASSESS AND USE DRUG FEES.

(a) TYPES OF FEES.—Section 736(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(a)) is amended—

(1) in the matter preceding paragraph (1), by striking ''fiscal year 1998'' and inserting ''fiscal year 2003'';

(2) in paragraph (1)(A)—

(A) in each of clauses (i) and (ii), by striking ''in subsection (b)'' and inserting ''under subsection (c)(4)''; and

(B) in clause (ii), by adding at the end the following sentence: ''Such fee shall be half of the amount of the fee established under clause (i).'';

(3) in paragraph (2)(A), in the matter after and below clause (ii)—

(A) by striking ''in subsection (b)'' and inserting ''under subsection (c)(4)''; and

(B) by striking ''payable on or before January 31'' and inserting ''payable on or before October 1''; and

(4) in paragraph (3)—

(A) by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—Except as provided in subparagraph (B), each person who is named as the applicant in a human drug application, and who, after September 1, 1992, had pending before the Secretary a human drug application or supplement, shall pay for each such prescription drug product the annual fee established under subsection (c)(4). Such fee shall be payable on or before October 1 of each year. Such fee shall be paid only once for each product for a fiscal year in which the fee is payable.''; and

(B) in subparagraph (B), by striking ''The listing'' and all that follows through ''filed under section 505(b)(2)'' and inserting the following: ''A prescription drug product shall not be assessed a fee under subparagraph (A) if such product is identified on the list compiled under section 505(j)(7)(A) with a potency described in terms of per 100 mL, or if such product is the same product as another product approved under an application filed under section 505(b)''.

(b) FEE AMOUNTS.—Section 736(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(b)) is amended to read as follows:

''(b) FEE REVENUE AMOUNTS.—Except as provided in subsections (c), (d), (f), and (g), fees under subsection (a) shall be established to generate the following revenue amounts:

''Type of Fee Revenue	*Fiscal Year 2003*	*Fiscal Year 2004*	*Fiscal Year 2005*	*Fiscal Year 2006*	*Fiscal Year 2007*
Application/Supplement	*$74,300,000*	*$77,000,000*	*$84,000,000*	*$86,434,000*	*$86,434,000*
Establishment	*$74,300,000*	*$77,000,000*	*$84,000,000*	*$86,433,000*	*$86,433,000*
Product	*$74,300,000*	*$77,000,000*	*$84,000,000*	*$86,433,000*	*$86,433,000*
Total Fee Revenue	*$222,900,000*	*$231,000,000*	*$252,000,000*	*$259,300,000*	*$259,300,000*

If, after the date of the enactment of the Prescription Drug User Fee Amendments of 2002, legislation is enacted requiring the Secretary to fund additional costs of the retirement of Federal personnel, fee revenue amounts shall be increased in each year by the amount necessary to fully fund the portion of such additional costs that are attributable to the process for the review of human drug applications.''.

(c) ADJUSTMENTS.—Section 736(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(c)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''fees and total fee revenues'' and inserting ''revenues'';

(B) in subparagraph (A)—

(i) by striking ''during the preceding fiscal year''; and

(ii) by striking '', or'' and inserting the following: ''for the 12 month period ending June 30 preceding the fiscal year for which fees are being established, or'';

(C) in subparagraph (B), by striking ''for such fiscal year'' and inserting ''for the previous fiscal year''; and

(D) in the matter after and below subparagraph (B), by striking ''fiscal year 1997''; and inserting ''fiscal year 2003'';

(2) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(3) by inserting after paragraph (1) the following paragraphs:

''(2) WORKLOAD ADJUSTMENT.—Beginning with fiscal year 2004, after the fee revenues established in subsection (b) are adjusted for a fiscal year for inflation in accordance with paragraph (1), the fee revenues shall be adjusted further for such fiscal year to reflect changes in the workload of the Secretary for the process for the review of human drug applications. With respect to such adjustment:

''(A) The adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of human drug applications, commercial investigational new drug applications, efficacy supplements, and manufacturing supplements submitted to the Secretary. The Secretary shall publish in the Federal Register the fee revenues and fees resulting from the adjustment and the supporting methodologies.

''(B) Under no circumstances shall the adjustment result in fee revenues for a fiscal year that are less than the fee revenues for the fiscal year established in subsection (b), as adjusted for inflation under paragraph (1).

''(3) FINAL YEAR ADJUSTMENT.—For fiscal year 2007, the Secretary may, in addition to adjustments under paragraphs (1) and (2), further increase the fee revenues and fees established in subsection (b) if such an adjustment is necessary to provide for not more than three months of operating reserves of carryover user fees for the process for the review of human drug applications for the first three months of fiscal year 2008. If such an adjustment is necessary, the rationale for the amount of the increase shall be contained in the annual notice establishing fee revenues and fees for fiscal year 2007. If the Secretary has carryover balances for such process in excess of three months of such operating reserves, the adjustment under this paragraph shall not be made.''; and

(4) in paragraph (4) (as redesignated by paragraph (2) of this subsection), by amending such paragraph to read as follows:

''(4) ANNUAL FEE SETTING.—The Secretary shall, 60 days before the start of each fiscal year that begins after September 30, 2002, establish, for the next fiscal year, application, product, and establishment fees under subsection (a), based on the revenue amounts established under subsection (b) and the adjustments provided under this subsection.''.

(d) FEE WAIVER OR REDUCTION.—Section 736(d)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(d)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by inserting ''or'' after the comma at the end;

(B) by striking subparagraph (D); and

(C) by redesignating subparagraph (E) as subparagraph (D); and

(2) in paragraph (3), in each of subparagraphs (A) and (B), by striking ''paragraph (1)(E)'' each place such term appears and inserting ''paragraph (1)(D)''.

(e) ASSESSMENT OF FEES.—Section 736(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(f)) is amended—

(1) in the heading for the subsection, by striking ''ASSESSMENT OF FEES.—'' and inserting ''LIMITATIONS.—''; and

(2) in paragraph (1), by striking the heading for the paragraph and all that follows through ''fiscal year beginning'' and inserting the following: ''IN GENERAL.—Fees under subsection (a) shall be refunded for a fiscal year beginning''.

(f) CREDITING AND AVAILABILITY OF FEES.—

(1) IN GENERAL.—Section 736(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(g)(1)) is amended by striking ''Fees collected for a fiscal year'' and all that follows through ''fiscal year limitation.'' and inserting the following: ''Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to remain available until expended.''.

(2) COLLECTIONS AND APPROPRIATION ACTS.—Section 736(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(g)(2)) is amended—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by striking ''(2) COLLECTIONS'' and all that follows through ''the amount specified'' in clause (i) (as so redesignated) and inserting the following:

''(2) COLLECTIONS AND APPROPRIATION ACTS.—

''(A) IN GENERAL.—The fees authorized by this section—

''(i) shall be retained in each fiscal year in an amount not to exceed the amount specified'';

(C) by moving clause (ii) (as so redesignated) two ems to the right; and

(D) by adding at the end the following subparagraph:

''(B) COMPLIANCE.—The Secretary shall be considered to have met the requirements of subparagraph (A)(ii) in any fiscal year if the costs funded by appropriations and allocated for the process for the review of human drug applications—

''(i) are not more than 3 percent below the level specified in subparagraph (A)(ii); or

''(ii)(I) are more than 3 percent below the level specified in subparagraph (A)(ii), and fees assessed for the fiscal year following the subsequent fiscal year are decreased by the amount in excess of 3 percent by which such costs fell below the level specified in such subparagraph; and

''(II) such costs are not more than 5 percent below the level specified in such subparagraph.''.

(3) AUTHORIZATION OF APPROPRIATIONS.—Section 736(g)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(g)(3)) is amended by striking subparagraphs (A) through (E) and inserting the following:

''(A) $222,900,000 for fiscal year 2003;

''(B) $231,000,000 for fiscal year 2004;

''(C) $252,000,000 for fiscal year 2005;

''(D) $259,300,000 for fiscal year 2006; and

''(E) $259,300,000 for fiscal year 2007;''.

SEC. 505. ACCOUNTABILITY AND REPORTS.

(a) PUBLIC ACCOUNTABILITY.—

(1) CONSULTATION.—In developing recommendations to the Congress for the goals and plans for meeting the goals for the process for the review of human drug applications for the fiscal years after fiscal year 2007, and for the reauthorization of sections 735 and 736 of the Federal Food, Drug, and Cosmetic Act, the Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall consult with the Committee on Energy and Commerce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, appropriate scientific and academic experts, health care professionals, representatives of patient and consumer advocacy groups, and the regulated industry.

(2) RECOMMENDATIONS.—The Secretary shall publish in the Federal Register recommendations under paragraph (1), after negotiations with the regulated industry; shall present such recommendations to the congressional committees specified in such paragraph; shall hold a meeting at which the public may present its views on such recommendations; and shall provide for a period of 30 days for the public to provide written comments on such recommendations.

(b) PERFORMANCE REPORT.—Beginning with fiscal year 2003, not later than 60 days after the end of each fiscal year during which fees are collected under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g et seq.), the Secretary of Health and Human Services shall prepare and submit to the President, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 502(4) during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals.

(c) FISCAL REPORT.—Beginning with fiscal year 2003, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (b), the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

SEC. 506. REPORTS OF POSTMARKETING STUDIES.

Section 506B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356b) is amended by adding at the end the following subsections:

''(d) DISCLOSURE.—If a sponsor fails to complete an agreed upon study required by this section by its original or otherwise negotiated deadline, the Secretary shall publish a statement on the Internet site of the Food and Drug Administration stating that the study was not completed and, if the reasons for such failure to complete the study were not satisfactory to the Secretary, a statement that such reasons were not satisfactory to the Secretary.

''(e) NOTIFICATION.—With respect to studies of the type required under section 506(b)(2)(A) or under section 314.510 or 601.41 of title 21, Code of Federal Regulations, as each of such sections was in effect on the day before the effective date of this subsection, the Secretary may require that a sponsor who, for reasons not satisfactory to the Secretary, fails to complete by its deadline a study under any of such sections of such type for a drug or biological product (including such a study conducted after such effective date) notify practitioners who prescribe such drug or biological product of the failure to complete such study and the questions of clinical benefit, and, where appropriate, questions of safety, that remain unanswered as a result of the failure to complete such study. Nothing in this subsection shall be construed as altering the requirements of the types of studies required under section 506(b)(2)(A) or under section 314.510 or 601.41 of title 21, Code of Federal Regulations, as so in effect, or as prohibiting the Secretary from modifying such sections of title 21 of such Code to provide for studies in addition to those of such type.''.

SEC. 507. SAVINGS CLAUSE.

Notwithstanding section 107 of the Food and Drug Administration Modernization Act of 1997, and notwithstanding the amendments made by this subtitle, part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, as in effect on the day before the date of the enactment of this Act, continues to be in effect with respect to human drug applications and supplements (as defined in such part as of such day) that, on or after October 1, 1997, but before October 1, 2002, were accepted by the Food and Drug Administration for filing.

SEC. 508. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect October 1, 2002.

SEC. 509. SUNSET CLAUSE.

The amendments made by sections 503 and 504 cease to be effective October 1, 2007, and section 505 ceases to be effective 120 days after such date.

Subtitle B—Funding Provisions Regarding Food and Drug Administration

SEC. 521. OFFICE OF DRUG SAFETY.

Of the amounts appropriated for the Food and Drug Administration for a fiscal year, the Secretary of Health and Human Services shall reserve for the Office of Drug Safety (within such Administration), the following amounts:

(1) For fiscal year 2003, an amount equal to the sum of $5,000,000 and the amount made available under appropriations Acts for such Office for fiscal year 2002.

(2) For fiscal year 2004, an amount equal to the sum of $10,000,000 and the amount made available under appropriations Acts for such Office for fiscal year 2002.

(3) For each subsequent fiscal year, an amount equal to the sum of the amount made available under appropriations Acts for such Office for fiscal year 2004 and an amount sufficient to offset the effects of inflation occurring after the beginning of fiscal year 2004.

SEC. 522. DIVISION OF DRUG MARKETING, ADVERTISING, AND COMMUNICATIONS.

For the Division of Drug Marketing, Advertising, and Communications (within the Office of Medical Policy, Food and Drug Administration), there are authorized to be appropriated the following amounts, stated as increases above the amount made available under appropriations Acts for such Division for fiscal year 2002:

(1) For fiscal year 2003, an increase of $2,500,000.

(2) For fiscal year 2004, an increase of $4,000,000.

(3) For fiscal year 2005, an increase of $5,500,000.

(4) For fiscal year 2006, an increase of $7,500,000.

(5) For fiscal year 2007, an increase of $7,500,000.

SEC. 523. OFFICE OF GENERIC DRUGS.

For the Office of Generic Drugs (within the Food and Drug Administration), there are authorized to be appropriated the following amounts, stated as increases above the amount made available under appropriations Acts for such Office for fiscal year 2002:

(1) For fiscal year 2003, an increase of $3,000,000.

(2) For fiscal year 2004, an increase of $6,000,000.

(3) For fiscal year 2005, an increase of $9,000,000.

(4) For fiscal year 2006, an increase of $12,000,000.

(5) For fiscal year 2007, an increase of $15,000,000.

Subtitle C—Additional Provisions

SEC. 531. TRANSITION TO DIGITAL TELEVISION.

(a) PAIR ASSIGNMENT REQUIRED.—In order to further promote the orderly transition to digital

television, and to promote the equitable allocation and use of digital channels by television broadcast permittees and licensees, the Federal Communications Commission, at the request of an eligible licensee or permittee, shall, within 90 days after the date of enactment of this Act, allot, if necessary, and assign a paired digital television channel to that licensee or permittee, provided that—

(1) such channel can be allotted and assigned without further modification of the tables of allotments as set forth in sections 73.606 and 73.622 of the Commission's regulations (47 CFR 73.606, 73.622); and

(2) such allotment and assignment is otherwise consistent with the Commission's rules (47 CFR part 73).

(b) ELIGIBLE TRANSITION LICENSEE OR PERMITTEE.—For purposes of subsection (a), the term ''eligible licensee or permittee'' means only a full power television broadcast licensee or permittee (or its successor in interest) that—

(1) had an application pending for an analog television station construction permit as of October 24, 1991, which application was granted after April 3, 1997; and

(2) as of the date of enactment of this Act, is the permittee or licensee of that station.

(c) REQUIREMENTS ON LICENSEE OR PERMITTEE.—

(1) CONSTRUCTION DEADLINE.—Any licensee or permittee receiving a paired digital channel pursuant to this section—

(A) shall be required to construct the digital television broadcast facility within 18 months of the date on which the Federal Communications Commission issues a construction permit therefore, and

(B) shall be prohibited from obtaining or receiving an extension of time from the Commission beyond the construction deadline established by paragraph (1).

(2) PROHIBITION OF ANALOG OPERATION USING DIGITAL PAIR.— Any licensee or permittee receiving a paired digital channel pursuant to this section shall be prohibited from giving up its current paired analog assignment and becoming a single-channel broadcaster and operating in analog on such paired digital channel.

(d) RELIEF RESTRICTED.—Any paired digital allotment and assignment made under this section shall not be available to any other applicant unless such applicant is an eligible licensee or permittee within the meaning of subsection (b).

SEC. 532. 3-YEAR DELAY IN LOCK IN PROCEDURES FOR MEDICARE+CHOICE PLANS; CHANGE IN CERTAIN MEDICARE+CHOICE DEADLINES AND ANNUAL, COORDINATED ELECTION PERIOD FOR 2003, 2004, AND 2005.

(a) LOCK-IN DELAY.—Section 1851(e) of the Social Security Act (42 U.S.C. 1395w–21(e)) is amended—

(1) in paragraph (2)(A), by striking ''THROUGH 2001'' and ''during 1998, 1999, 2000, and 2001'' and inserting ''THROUGH 2004'' and ''during the period beginning January 1, 1998, and ending on December 31, 2004'', respectively;

(2) in the heading to paragraph (2)(B), by striking ''DURING 2002'' and inserting ''DURING 2005'';

(3) in paragraphs (2)(B)(i) and (2)(C)(i), by striking ''2002'' and inserting ''2005'' each place it appears;

(4) in paragraph (2)(D), by striking ''2001'' and inserting ''2004''; and

(5) in paragraph (4), by striking ''2002'' and inserting ''2005'' each place it appears.

(b) CHANGE IN REPORTING DEADLINE.—

(1) IN GENERAL.—Section 1854(a)(1) of such Act (42 U.S.C. 1395w–24(a)(1)) is amended by striking ''Not later than July 1 of each year'' and inserting ''Not later than the second Monday in September of 2002, 2003, and 2004 (or July 1 of each other year)''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to information submitted for years beginning with 2003.

(c) DELAY IN ANNUAL, COORDINATED ELECTION PERIOD.—

(1) IN GENERAL.—Section 1851(e) of such Act (42 U.S.C. 1395w–21(e)) is amended—

(A) in paragraph (3)(B), by striking ''means'' and all that follows and inserting the following: ''means, with respect to a year before 2003 and after 2005, the month of November before such year and with respect to 2003, 2004, and 2005, the period beginning on November 15 and ending on December 31 of the year before such year.''; and

(B) in paragraph (6)(A), by striking ''each subsequent year (as provided in paragraph (3))'' and inserting ''during the annual, coordinated election period under paragraph (3) for each subsequent year''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the annual, coordinated election period for years beginning with 2003.

(d) CHANGE TO ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—

(1) IN GENERAL.—Section 1853(b)(1) of such Act (42 U.S.C. 1395w–23(b)(1)) is amended by striking ''not later than March 1 before the calendar year concerned'' and inserting ''for years before 2004 and after 2005 not later than March 1 before the calendar year concerned and for 2004 and 2005 not later than the second Monday in May before the respective calendar year''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall first apply to announcements for years after 2003.

And the Senate agree to the same.

From the Committee on Energy and Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
MICHAEL BILIRAKIS,
PAUL E. GILLMOR,
RICHARD BURR,
JOHN SHIMKUS,
JOHN D. DINGELL,
HENRY A. WAXMAN,
SHERROD BROWN,

Provided that Mr. Pallone is appointed in lieu of Mr. Brown of Ohio for consideration of title IV of the House bill, and modifications committed to conference:

FRANK PALLONE, Jr.,

From the Committee on Agriculture, for consideration of title II of the House bill and sec. 216 and title V of the Senate amendment, and modifications committed to conference:

LARRY COMBEST,
FRANK D. LUCAS,
SAXBY CHAMBLISS,
CHARLES STENHOLM,
TIM HOLDEN,

From the Committee on the Judiciary, for consideration of title II of the House bill and secs. 216 and 401 of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER, Jr.,
LAMAR SMITH,
JOHN CONYERS, Jr.,

Managers on the Part of the House.

EDWARD KENNEDY,
CHRIS DODD,
TOM HARKIN,
BARBARA A. MIKULSKI,
JIM JEFFORDS,
JUDD GREGG,
BILL FRIST,
MIKE ENZI,
TIM HUTCHINSON,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3448), to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES

As approved by the conference Managers, Title I addresses core public health concerns associated with preparedness for and effective response to bioterrorism and other public health emergencies in a number of different ways. First Title I improves communications between and among all levels of government, public health officials, first responders, and health care providers and facilities during emergencies. The Managers have authorized substantial sums in FY 2002 and beyond in grants to States, local governments, and other public and private health care facilities and other entities to improve planning and preparedness activities, and educate and train health care personnel. Under Title I, the Department of Health and Human Services (HHS) will have a new focus, and improved coordination and accountability, through a new Assistant Secretary for Public Health emergency preparedness. The legislation also authorizes the National Disaster medical system, new planning and reporting provisions, training exercises, and improved communications strategies and networks. The Managers also believe that the provisions of Title I will ensure that the nation has sufficient drugs, vaccines, and other supplies for our emergency health security. The Managers intend for activities under Title I to enhance the Nation's public health infrastructure at the national, state, and local levels. The Managers believe that an effective public health system is essential to responding effectively to bioterrorism and other public health emergencies.

Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting

Section 101. National Preparedness and Response

House provision: The House provision requires the Secretary of HHS to continue the process of developing and implementing a coordinated strategy, including the preparation of a national plan for carrying out health-related activities to prepare for and respond effectively to bioterrorism and other public health emergencies. The plan would be in consultation with other Federal agencies and other appropriate public and private entities. The plan also would be coordinated with activities of State and local governments to meet preparedness goals set out under the Act. National preparedness goals include providing effective assistance to State and local governments to ensure that they and their health care facilities have

adequate capacity and properly trained response personnel; a coordinated plan, effective communications networks, and laboratory readiness, training and surveillance; developing and maintaining medical countermeasures against biological agents; and effective coordination at all levels of government. There would be evaluations and reports of progress.

Senate amendment: The Senate amendment contains similar provisions.

Conference substitute: The Conference adopts the House provisions with certain modifications to clarify the provision does not expand regulatory or other authority, and to incorporate various advisory committee and study provisions. A study to emergency response services and their use during public health emergencies, formerly located in section 114 of the House bill, is now located in this section.

Section 102. Assistant Secretary for Public Health Emergency Preparedness; National Disaster Medical System

House provision: The House provision establishes the new position of Assistant Secretary for Emergency Preparedness to coordinate HHS activities under the new Act. The provision also would authorize the National Disaster Medical System, under the new Assistant Secretary to provide for further National capacity during public health emergencies.

Senate amendment: The Senate amendment contains a similar provision in section 211 of the Senate amendment.

Conference substitute: The Conference substitute uses the House language with modification. The managers believe that there is a need to increase coordination of the Department of Health and Human Services' efforts in responding to bioterrorism and other public health emergencies, and thus has provided for the creation of an Assistant Secretary for Public Health Emergency Preparedness. The substitute also formally establishes the National Disaster Medical System (NDMS), recognizing the important role already played by the NDMS in the Federal government's response to all types of emergencies and disasters. The substitute also addresses a number of critical personnel issues within the NDMS, including liability protections, employment rights, and compensation for work injuries. In addition, the Secretary shall take into account the role and expertise of the Agency for Toxic Substances and Disease Registry.

Section 103. Improving Ability of Centers for Disease Control and Prevention

House provision: The House bill provides authorization and multi-year contracting authority for the renovation, development and security at facilities for the Centers for Disease Control and Prevention (CDC). The House bill also enhances training and nationwide laboratory capacity, and the establishment of integrated, national public health communications and surveillance networks.

Senate amendment: The Senate amendment, in section 202, also contains provisions for upgrading CDC's activities and facilities.

Conference substitute: The Conference substitute adopts the House provision with modifications. The substitute recognizes the critical role played by CDC in the nation's efforts to defend against bioterrorism and other public health emergencies. The Managers are concerned by extreme disrepair at many CDC laboratories and believe that repair and modernization funds are desperately needed. To that end, the substitute has provided multi-year contracting authority for CDC and has authorized an accelerated program of facilities funding. The substitute also recognizes the central role played by CDC in maintaining robust public health alert communications and surveillance networks, and has provided for grants, contracts, and cooperative agreements to further strengthen a national network that includes public health laboratories and other health care facilities. Provisions concerning priorities for public health lab enhancements have been moved to the general grants section, section 131, of the Conference substitute.

Section 104. Advisory Committees and Communications; Study Regarding Communications Abilities of Public Health Agencies

House provision: Section 104 of the House bill establishes an advisory committee on children and terrorism and also one on emergency public information and communications. The provision also requires a coordinated strategy on public health communications during a bioterrorism attack. Section 111 also contains a provision for a study regarding the communications ability of public health agencies and to improve telecommunications infrastructure and connectivity during public health emergencies.

Senate amendment: Section 213 of the Senate amendment contains similar provisions. Section 214 of the Senate amendment also contains a provision establishing the official Federal Internet Site on Bioterrorism.

Conference substitute: The Conference substitute adopts, with minor modification, the provisions from the House and Senate establishing an advisory committee on children and terrorism; an advisory committee on emergency public information and communications; a coordinated strategy on public health communications during a bioterrorism attack; and the official Federal Internet Site on Bioterrorism.

Section 105. Education of Health Care Personnel; Training Regarding Pediatric Issues

House provision: The House bill requires the establishment of core curriculum materials for public health emergencies, for the purpose of education and training of health care personnel.

Senate amendment: Section 105 of the Senate amendment contains a similar provision.

Conference substitute: The Conference substitute adopts the House provision with minor modification. The Managers intend that the eligible entity phrase ''other appropriate educational entities'' includes medical schools that have established departments of medical education.

Section 106. Grants Regarding Shortages of Certain Health Professionals

House provision: The House bill provides grants for training and education to certain categories of health care professionals for which there exist shortages impacting the ability to respond to bioterrorism and other public health emergencies.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference adopts the House provision without modification.

Section 107. Emergency System for Advance Registration of Health Professions Volunteers

House provision: The House bill establishes a national system to help verify the licenses, credentials and hospital privileges of health professionals who volunteer to respond during public health emergencies.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference adopts the House provision with modifications to make clear that use of the verification database is entirely voluntary, and that nothing in the section changes the roles of States in licensing or hospitals in establishing privileging requirements.

Section 108. Working Groups

House provision: House section 108 makes modifications to the existing working groups in section 319 of the Public Health Service Act (PHSA).

Senate amendment: The Senate amendment also makes modifications and additions to the working group provisions. The Senate amendment also consolidates the two existing working groups in sections 319F of the Public Health Service Act.

Conference substitute: The Conference substitute adopts a single working group, but allows for subcommittees to represent the working group with respect to particular matters. The authority of the working group is limited through various savings clauses. The primary purposes of the working group are consultation, assisting in coordination, and making recommendations on a variety of topics related to preparedness for and response to bioterrorism and other public health emergencies. The Managers expect the working group to take into account the role and expertise of the Agency for Toxic Substances and Disease Registry. Additionally, the Managers encourage the working group to recognize the role of private ambulance services, especially when they may be the only ambulance services in the area.

Section 109. Antimicrobial Resistance

House provision: The House bill authorizes further research and DNA analysis of priority pathogens that may be used by bioterrorists, and contains other provisions concerning antimicrobial resistance.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision on antimicrobial resistance. The provision concerning priority pathogens has been moved to section 125 of the Conference substitute.

Section 110. Supplies and Services in Lieu of Award Funds

House provision: The House bill provides flexibility to allow the Secretary of HHS to supply actual supplies, equipment, or services instead of, or in conjunction with, grants.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision.

Section 111. Additional Amendments

House provision: The House bill makes revisions to time frames to accelerate preparedness planning.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision.

Subtitle B—Strategic National Stockpile; Development of Priority Countermeasures

Section 121. Strategic National Stockpile

House provision: The House bill authorizes a national stockpile or stockpiles of drugs, vaccines, biologic products, medical devices and supplies to meet the health security needs of the United States. It requires enhanced procedures for coordination, maintenance, delivery, and distribution. House authorization language in section 151 of the House bill specifies specific sums for smallpox vaccines.

Senate amendment: Section 201 of the Senate amendment also authorizes a national stockpile, and separately has a provision under section 402 for authorizing smallpox vaccines for the stockpile.

Conferece substitute: The Conference substitute adopts the House provision with modifications and inclusion of a specific provision on smallpox vaccines. The Managers believe that antiviral products may be appropriate for the strategic national stockpile

and may include antiviral products reviewed by the Food and Drug Administration (FDA) or National Institutes of Health (NIH).

Section 122. Accelerated Approval of Priority Countermeasures

House provision: The House bill clarifies certain fast-track authority for drug priority countermeasures under the Federal Food, Drug, and Cosmetic Act.

Senate amendment: Section 405 of the Senate amendment contains a similar provision.

Conference substitute: The Conference substitute adopts the Senate provision with modification.

Section 123. Issuance of Rule on Animal Trials

House provision: The House bill requires the FDA to issue a final rule within six months allowing reliance on animal trials for certain priority countermeasures for public health emergencies.

Senate amendment: The Senate amendment contains a similar requirement with a 30-day time frame.

Conference substitute: The Conference substitute adopts the House provision with modifications to provide the rule within 90 days of the date of enactment.

Section 124. Security for Countermeasure Development and Production

House provision: The House bill authorizes the Secretary, in consultation with the Attorney General and Secretary of Defense, to provide technical or other assistance to enhance security at facilities that conduct development, production, distribution, or storage of priority countermeasures.

Senate amendment: Section 402 of the Senate amendment contains a similar provision and also provides for best practices guidelines.

Conference substitute: The Conference substitute adopts the House provisions without a requirement for best practices guidelines.

Section 125. Accelerated Countermeasure Research and Development

House provision: The House bill directs the Secretary to conduct an accelerated countermeasure development program, and to award grants for biomedical research, development of vaccines, and diagnostic tests for priority countermeasures.

Senate amendment: Section 404 of the Senate amendment contains similar provisions.

Conference substitute: The Conference substitute adopts the Senate provisions with modifications. The House provision concerning priority pathogens is included. The Managers encourage the Secretary to consider novel methods for detecting and identifying viral and bacterial pathogens, and developing and manufacturing effective therapeutic responses, including both vaccines and antibiotics. The Managers also encourage the Secretary to consider the use of emerging biophysical and biomanufacturing technologies that hold the promise of producing rapid detection/response programs that can achieve accelerated responses to bioterrist attacks or threats. In addition, the Managers encourage the Secretary, in coordination with the Administrator of the Environmental Protection Agency, to develop protocols for and enhance facilities for testing technologies used to decontaminate facilities contaminated as a result of bioterrorism.

Section 126. Evaluation of New and Emerging Technologies Regarding Bioterrist Attack and Other Public Health Emergencies

House provision: The House bill requires the Secretary to evaluate new and emerging technologies to help detect, identify, diagnose, or conduct public health surveillance activities for public health emergencies, and prioritize development and deployment where warranted.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision with limiting modifications.

Section 127. Potassium Iodide

House provision: The House bill requires the Secretary to make potassium iodide available to States and local governments that submit a plan for local stockpile and distribution for the population within 20 miles of a nuclear power plant.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision with modifications that include authority provided to the President; additional restrictions on the eligibility of local governments; and a different schedule for effective dates, and other modifications.

Subtitle C—Improving State, Local, and Hospital Preparedness for and Response to Bioterrorism and Other Public Health Emergencies

Section 131. Grants to Improve State, Local, and Hospital Preparedness for and Response to Bioterrorism and Other Public Health Emergencies

House provision: The House bill modifies current authorities under section 319 of the PHSA and otherwise authorized grant funding to improve State, local, and hospital preparedness for and response to bioterrorism and other public health emergencies through the existing mechanisms of the PHSA. Authorization was provided from FY 2002–2006.

Senate amendment: The Senate amendment contains a provision for State block grants for fiscal years 2002–2003 for bioterrorism activities only, and the authorization would not continue past FY 2003. It also provides an authorization for bioterrorism medical centers with authorization from FY 2002–2006, limited to bioterrorism activities. Finally, the Senate amendment maintains and authorizes a portion of funding under section 319 for a broader list of purposes and eligible entities.

Conference substitute: The Conference substitute reflects a compromise between House and Senate approaches. For FY 2003, there is a modified State block grant provision. Beyond FY 2003, greater flexibility is provided to the Secretary to either continue the same approach or modify the approach without the restrictions of the FY 2003 formulas. The substitute also provides authorization for the purpose of enhancing the preparedness of hospitals (including children's hospitals), clinics, health centers, and primary care facilities, and for planning and administrative purposes relating to such authorizations. For FY 2004–2006, there is a new section 319 C–2.

The Managers want to ensure that section 131 does not delay or disrupt the current grants and cooperative agreements that the Administration has been using in FY 2002, including those programs administered by CDC and the Health Resources and Services Administration (HRSA). It is the Managers' intent to allow the Administration to continue this approach. The Managers expect the Administration to evaluate the effectiveness of the program and make revisions where necessary to improve effectiveness and accountability.

The Managers intend that a permissible use of funds under this section includes grants to one or more centers of excellence to develop appropriate innovative technology projects—for example, the development of a web-based computerized planning application that incorporates standardized language and utilizes wireless mobile technology. The Managers intend that training programs pursuant to this section could include the use of virtual reality training methods, human patient simulators, computer-assisted training modalities, and internet-based training and modeling capabilities. One or more centers of excellence could be established to develop, deploy, and evaluate virtual and augmented reality-based, internet-ready training capabilities.

Subtitle D—Emergency Authorities; Additional Provisions

Section 141. Reporting Deadlines

House provision: The House bill provides extensions for certain reporting deadlines during a public health emergency, and for transfer authority for funds during a public health emergency.

Senate amendment: The Senate amendment contains an analogous provision on reporting deadlines and no new transfer authority.

Conference substitute: The Conference substitute adopts the Senate provision on reporting deadlines with minor modifications.

Section 142. Streamlining and Clarifying Communicable Disease Quarantine Provisions

House provision: The House bill changes existing law to expand the authority of the Secretary, in consultation with the Surgeon General, and under certain conditions, to specify diseases that are subject to individual detention orders.

Senate amendment: The senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision with modifications to the standards required before the Secretary may exercise this authority.

Section 143. Emergency Waiver of Medicare, Medicaid, and SCHIP Requirements

House provision: Section 143 allows the Secretary of Health and Human Services to waive certain requirements (and related regulations) in of titles XVIII, XIX, and XXI of the Social Security Act (as well as requirements and regulations under title XI of the Social Security Act, only as necessary to effectuate the waiver of the enumerated requirements of titles XVIII, XIX, and XXI to meet the purposes of this section) in the event of an emergency or disaster in order to: (1) facilitate the provision of health services in the emergency or disaster area, and (2) ensure that health care providers who furnish care in good faith to individuals enrolled in these programs during an emergency or disaster may be reimbursed without penalty. The Secretary can waive requirements pertaining to: conditions of participation for providers; provider licensing requirements; sanctions for physician self-referral; sanctions relating to transferring patients in an emergency; and deadlines for filing reports for periods of up to 90 days.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision with modifications. The Managers agree that the Secretary shall provide written notice to Congress, including a certification that a waiver is necessary. This notice shall be issued before the waiver authority is exercised. Additionally, the Secretary must report to Congress within a year evaluating the effectiveness of the approaches used during the operation of the waiver. The time frame for such waivers shall be 60 days.

Section 144. Provision for Expiration of Public Health Emergencies

House provision: The House bill provides that public health emergencies expire by announcement of the Secretary, or after 90 days. The Secretary may renew emergency declarations at his or her discretion.

Senate amendment: Section 212 of the Senate Amendment contains a similar provision, but with a 180-day expiration period.

Conference substitute: The Conference substitute adopts the House provision with amendments, including clarifying the status of any existing declaration of public health emergencies.

Subtitle—Additional Provisions

Section 151. Designated State Public Emergency Announcement Plan

House provision: Section 135 of the House bill amends the Stafford Act to provide for coordinated communications response.

Senate amendment: Section 312 of the Senate amendment contains an identical provision.

Conference substitute: The Conference substitute adopts the identical House and Senate provisions.

Section 152. Expanded Research by Secretary of Energy

House provision: The House bill expands current research at the Department of Energy (DOE) and the National Nuclear Security Administration (NNSA) on rapid detection of pathogens likely to be used in bioterrorist attacks or other agents that may cause a public health emergency.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision.

Section 153. Expanded Research on Worker Health and Safety

House provision: The House bill authorizes the National Institutes of Occupational Safety and Health (NIOSH) to expand research on health and safety of workers who are at risk for bioterrorist threats or attacks in the workplace.

Senate amendment: The Senate amendment contains an analogous provision.

Conference substitute: The Conference substitute adopts the Senate Amendment with minor modification.

Section 154. Enhancement of Emergency Preparedness of Department of Veterans Affairs

House provision: The House bill has no analogous provision.

Senate amendment: The Senate amendment has no analogous provision.

Conference substitute: The Conference substitute instructs the Secretary of Veterans Affairs to take appropriate actions to enhance the readiness of the Department's medical centers and research facilities for a chemical or biological attack, based on the results of an evaluation to be conducted by the Secretary on the security needs at these facilities.

Section 155. Reauthorization of Existing Program

House provision: The House bill has no analogous provision.

Senate amendment: The Senate amendment has no analogous provision.

Conference substitute: The Conference substitute amends section 582(f) of the Public Health Service Act by reauthorizing a grant program through 2006 that provides awards to public and private entities, as well as Indian tribes and tribal organizations, that develop programs focusing on the behavioral and biological aspects of psychological trauma response and research that will help treat psychiatric disorders of children and youth resulting from witnessing or experiencing a traumatic event.

Section 156. Sense of Congress

House provision: The House bill has no analogous provision.

Senate amendment: The Senate amendment states that Congress recognizes that many university-based programs are already functioning and developing important biodefense products and solutions. Congress should recognize the importance of supporting work done at university centers and laboratories. In addition, Congress should recognize the importance of existing public and private university-based research, training, public awareness, and safety-related biological defense programs in the awarding of grants and contracts made in accordance with this Act.

Conference substitute: The Conference substitute contains one modification to the Senate amendment, which clarifies that the Secretary of Health and Human Services may recognize the importance of existing public and private university-based efforts in grants and cooperative agreements.

Section 157. General Accounting Office Report

House provision: The House bill has no analogous provision.

Senate amendment: The Senate amendment requires a General Accounting Office (GAO) report to Congress on Federal bioterrorism-related activities.

Conference substitute: The Conference substitute amends section 319F of the Public Health Service Act to require GAO to report on Federal bioterrorism-related activities, including research, preparedness, and response, to the following committees: Senate Health, Education, Labor, and Pensions; Senate Appropriations; House Energy and Commerce; and House Appropriations.

Section 158. Certain Awards

House provision: The House bill has no analogous provision.

Senate amendment: The Senate amendment has no analogous provision.

Conference substitute: The Conference substitute amends section 319(a) of the Public Health Service Act by inserting after ''grants,'' ''providing awards for expenses, and.''

Section 159. Public Access Defibrillation Programs and Public Access Defibrillation Demonstration Projects

House provision: The House bill contains no such analogous provision.

Senate amendment: The Senate amendment contains no such analogous provision.

Conference substitute: The Conference substitute amends section 243 of title 42, United States Code, to enact the ''Community Access to Emergency Defibrillation Act of 2002.'' The Conference substitute directs the Secretary to establish a new grant program for States, political subdivisions of States, Indian tribes, and tribal organizations to develop and implement public access defibrillation programs. These grants may be used to purchase automated external defibrillators (AEDs), to provide automated external defibrillation and basic life support training in AED usage, to provide information to community members about the public access defibrillation program, to provide information to the local emergency medical system regarding the placement of AEDs, and to produce materials to encourage private companies to purchase AEDs. For this new grant program, the Conference substitute authorizes the appropriation of $25 million in fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2004 through 2006. The Conference substitute also establishes a new grant program for political divisions of States, Indian tribes, and tribal organizations to develop and implement innovative, comprehensive, community-based public access defibrillation demonstration projects. These grants may be used to purchase AEDs, to provide basic life training in automated external defibrillator usage, to provide information to community members about the public access defibrillation demonstration project, and to provide information to the local emergency medical services system regarding the placement of AEDs. For these demonstration projects, the Conference substitute authorizes the appropriation of $5 million for fiscal years 2003 through 2006. The Managers intend that the ''Good Samaritan'' protections regarding emergency use of AEDs outlined in section 238(q) of title 42, United States Code will apply to this section. It is the intent of the Managers that this new program coordinates its activities with the Rural AED program and avoid duplication of effort.

TITLE II—ENHANCING CONTROLS ON DANGEROUS BIOLOGICAL AGENTS AND TOXINS

Subtitle A—Department of Health and Human Services

Section 201. Regulation of Certain Biological Agents and Toxins

House provision: The House bill requires all persons who possess, use or transfer ''select agents''—the 36 biological agents or toxins currently determined by the Secretary of the Department of Health and Human Services (HHS) to pose ''a severe threat to public health and safety''—to register with the Secretary and be subject to reasonable safety and security requirements and inspections. Current law requires registration only of those entities transferring such agents. The House bill also directs that the Secretary maintain a national database of all such agents, with sufficient information to facilitate their identification and traceability. The Secretary, in consultation with the Attorney General, must establish specific security requirements for registered facilities and a personnel screening protocol to ensure that access to such agents is not permitted by individuals who are ''restricted persons'' under the USA PATRIOT Act (18 U.S.C. 175b), are named in a warrant for violent criminal or terrorist activity, are under investigation for involvement in domestic or international terrorist or criminal organizations, or suspected of spying for the military or intelligence operations of a foreign nation. The Secretary is granted authority to assist public and nonprofit private entities in meeting such security requirements. The House bill also imposes civil penalties for those who violate the regulations, up to $500,000.

The House bill grants the Secretary discretion to make exemptions to the registration requirements only where those exemptions are consistent with protecting the public health and safety—for example, with respect to inactivated or attenuated strains of select agents used in vaccines or other products for legitimate medical research or use—or when the agent is presented for diagnosis, verification or proficiency testing purposes at a clinical laboratory and is promptly destroyed or transferred to a registered facility after such identification. The House bill also exempts from mandatory disclosure under the Freedom of Information Act (FOIA) site-specific or identifying information submitted under these regulations concerning registered persons, select agents, and security mechanisms.

Senate amendment: The Senate amendment is substantially similar to the House bill but differs in a few respects. First, in developing the list of select agents, the Secretary is directed to consider the needs of children and other vulnerable populations. Second, individuals who seek access to select agents are screened only to identify if they are ''restricted persons'' under the USA PATRIOT Act, or are named in a warrant for participation in a domestic or international act of terrorism. Third, the Secretary is permitted

to exempt certain attenuated or inactive biological agents or toxins and certain approved medical products from the list of select agents.

Conference substitute: The Conference substitute adopts provisions of both bills, with significant modifications. The primary goals of this subtitle are to ensure the prompt reporting to the Federal government of possession of select agents (including by those who were in possession prior to April 15, 1997, the effective date for reporting transfers of select agents), to increase the security over such agents (including access controls and screening of personnel), and to establish a comprehensive and detailed national database of the location and characterization of such agents and the identities of those in possession of them. To effectuate these goals, the substitute requires that, at a minimum, all possession of select agents (unless exempt under the provisions of this subtitle) must be registered with the Secretary. The Managers expect that most ''persons'' who register under this subtitle will be public and private entities, rather than individuals. But these provisions also will cover individuals possessing, using or transferring select agents who have not been granted authority to do so by registered persons. If an individual has not been granted such authority, then that individual would be a person required to register under this subtitle. If an individual has been granted such authority without proper authorization from the Secretary, as required by this subtitle, then the registered person is subject to any penalties provided for violation of such regulations. The Managers emphasize that the primary responsibility for registration and the screening of employees working with select agents is with the entity or employer, not the individual employee. The Secretary also is required to promulgate regulations establishing safety requirements for the possession, use, and transfer of select agents. These regulations must include procedures to protect the public safety in the event the safety requirements for possession, use or transfer are violated.

The Managers recognize that some select agents may pose a greater threat to the public health and safety than others. Accordingly, the Conference substitute amends the security requirements of both bills by adding the phrase ''commensurate with the risk such agent or toxin poses to public health and safety (including the risk of use in domestic or international terrorism).'' The Secretary will have flexibility to impose different levels of security requirements on different select agents based on his or her evaluation of the level of threat to the public, as is currently done with respect to laboratory biosafety levels. Because an agent must pose a severe threat to human health to be placed on the select agent list, the Secretary may not decide that security requirements or registration of possession are unnecessary for a particular select agent.

The substitute also modifies the existing statutory requirements for the transfer regulations by adding ''and security measures'' after ''safeguards'' in the term ''safeguards to prevent access . . . for use in domestic or international terrorism or for any other criminal purposes'' to clarify that such regulations include the imposition of security requirements. The substitute also requires that registered persons promptly notify the Secretary whenever a select agent is lost, stolen, or released outside of a biocontainment area of a facility. Current HHS regulations do not mandate such notifications.

The Conference substitute adds new provisions regarding the screening of entities and individuals seeking to register their possession, use or transfer of select agents. While both the House and Senate bills mandate screening of individuals seeking access to agents through a registered person, neither bill required screening of the registered persons themselves. The substitute provides for such screening in a similar manner to that performed for individuals working at the facilities of registered persons. Further with respect to screening, the substitute drops the provision in both bills relating to outstanding warrants, as duplicative of the fugitive provision in the restricted person categories of the USA PATRIOT Act, and adds a screening category that was in neither bill—those reasonably suspected of committing Federal crimes of terrorism. The substitute includes but makes revisions to the two additional screening categories contained in the House bill to ensure an objective basis for governmental suspicion of involvement with terrorist or criminal organizations, or with foreign powers. In the case of restricted persons, the substitute mandates that access to select agents be denied, because of the criminal prohibition on possession by such persons. In the case of persons falling within the other three specified categories, the substitute grants the Secretary and Attorney General discretion in determining how to proceed, given the law enforcement sensitivity of such situations. By making this distinction between the handling of restricted persons and other screening categories, the Managers do not intend that potential terrorists or foreign agents should be subject to a less strict screening standard than restricted persons. The substitute also clarifies that the screening performed by the Attorney General is for the sole purpose of identifying—through the use of official, electronic databases available to the Federal government—whether an individual or entity falls within any of the specified categories, and for notifying the HHS Secretary of such identification. It is the Managers' intent that the term ''electronic databases'' is not meant to preclude the use of other databases or files by the Attorney General to clarify or confirm information obtained during the electronic database search.

To address concerns within the academic and research communities about the timeliness and accuracy of the background screening process, the Conference substitute amends both bills by requiring ''prompt'' action by the Attorney General and the Secretary with respect to screening of and notification to affected individuals, and by providing for an expedited review process where good cause has been demonstrated by the registered person. The substitute also provides for a review of denials by the Secretary based on the screening process, and subsequent judicial review—with provisions to ensure that classified or sensitive law enforcement information is not compromised during such reviews. Specifically, the substitute allows for ex parte review by the Secretary in administrative proceedings, and the court during judicial review, whenever a denial is challenged. In providing the right for ex parte review, the Managers intend to protect classified and law enforcement sensitive information, including through the use of in camera proceedings. Moreover, the Managers intend that a reviewing court should not order the disclosure of any information that the United States believes may compromise national security or an ongoing law enforcement investigation without affording the United States an opportunity for further review in accordance with this subtitle. It is the Managers' overall expectation that the screening process be conducted in a timely and fair manner, and that the Secretary and the Attorney General will work closely together to effectuate such intent.

With respect to the national database of select agents that the Secretary must develop pursuant to this section, the Conference substitute slightly alters the language used in both bills with respect to the database's purpose. The object of the registration and database requirements is to provide information about all persons possessing, using or transferring select agents, and to collect sufficiently detailed characterization information on the registered select agents so that the database can differentiate between and within strains of a given agent or toxin. Such information should be in a format that public health and law enforcement officials can use to identify the origin or source of an agent or toxin that is used to cause harm to the public. Because of concerns over the potential for misconstruction, the term ''traceability''—which could imply a chain of custody or tracking requirement—was eliminated, and was replaced with the concept of ''source.''

Significant modifications were made to both bills with respect to exemptions from the statutory and regulatory requirements governing select agents. The Conference substitute establishes several exemptions from the regulatory regime for select agents, most of which are consistent with the Secretary's current regulations and practices. First, the Conference substitute adopts, with modifications, the Senate amendment's language with respect to product exemptions. The substitute directs the Secretary to exempt from such regulations products that are, bear or contain a select agent and are licensed or approved under several specified Federal laws, unless the Secretary determines that additional regulation is necessary for a specific product to ensure protection of public health and safety. The Managers intend that the Secretary will exempt by regulation categories of products, consistent with current regulations, and will act to regulate a specific product, or a particular application of a specific product, only when existing regulation under other Federal laws is inadequate. For example, HHS currently exempts the FDA-approved medical product Botox, which is the select agent botulinum toxin, when it is used by licensed physicians in the treatment of patients. However, when it is used in purely research settings or as part of early-stage clinical trials, HHS has chosen not to exempt Botox from current regulations. The Managers do not intend to alter this flexibility.

Second, the Conference substitute adds a provision granting the Secretary discretionary authority to exempt, on a case-by-case basis, investigational products when they are being used in investigational or clinical trials authorized under other Federal laws, such as the Federal Food, Drug, and Cosmetic Act. Given the time sensitivity of such trials, the substitute also includes a provision mandating a prompt determination by the Secretary of such an exemption request—within 14 days after the applicant has submitted a complete exemption request and has notified the Secretary that the investigation may proceed as authorized under Federal law.

Third, with respect to clinical or diagnostic laboratories that may come into possession of select agents when conducting specimen diagnosis, verification or proficiency testing, the substitute adopts with minor changes the comparable provisions in the House and Senate bills. The Secretary shall exempt such laboratories from registration requirements, but only if they report the identification of select agents to the Secretary and either promptly transfer the agent to a registered person or destroy the agent on site, in accordance with regulations established by the Secretary. While HHS currently exempts such laboratories, existing

regulations permit them to transfer, destroy, or store the agent on site for reference purposes. The Conference substitute expressly rejects that regulatory approach, as it is inconsistent with the fundamental premise of this title—that all those who maintain possession of a select agent must register and be subject to appropriate security and safety requirements. The Secretary may not exempt laboratories that possess select agents for reference purposes, or any other clinical or diagnostic laboratories that do not qualify for an exemption under the terms of this title. In addition, the Conference substitute creates two temporary exemption authorities to deal with public health emergencies and agricultural emergencies, whether domestic or foreign.

With respect to funding, the Conference substitute authorizes such sums as may be necessary to carry out these new and expanded functions. The Managers note that, historically, HHS has had insufficient resources to properly run the existing select agent transfer program. While current regulations permit inspections, only 20 percent of all registered facilities have been inspected since the inception of the program in 1997, and virtually none of these inspections were conducted prior to registration. The Managers also note that HHS received a large increase in funding for this program in the Fiscal Year 2002 supplemental appropriations bill. Given the broader, but uncertain scope of the new regulatory regime, it is unclear whether additional funds beyond current appropriations will be necessary for Fiscal Year 2003. Once all persons possessing select agents notify the Secretary of such possession 90 days after enactment of this title, the appropriations level may need to be re-evaluated.

Section 202. Implementation by Department of Health and Human Services

House provision: The House bill requires notification to the Secretary by all persons possessing select agents within 60 days of enactment, and an interim final rule establishing a regulatory structure to be issued within 120 days of enactment.

Senate amendment: The Senate amendment requires the Secretary to issue an interim final rule within 180 days of enactment, and requires all persons possessing select agents to register within 60 days of issuance of the rule.

Conference substitute: The Conference substitute adopts the House bill with modifications. The substitute requires notification to the Secretary by all persons possessing select agents within 90 days of enactment, based on guidance issued by the Secretary within 30 days of enactment, and the issuance of an interim final rule within 180 days of enactment. The substitute also provides that the interim final rule shall include time frames for applicability of the rule that minimize disruption of research or educational projects that involves select agents and that were underway as of the effective date of such rule. The Managers note that the interim final rule and effective date provisions will result in these new regulations going into effect at approximately the same time as the National Institutes of Health (NIH) begins to award Fiscal Year 2003 grants for research, some of which will be in the select agent area. The Managers expect that the Secretary will encourage those seeking such grants to begin the registration and screening process under this title concurrently with the NIH grant process, and that the Secretary will ensure the timely registration and screening of such grantees, so as not to delay this important research.

Section 203. Effective dates

House provision and Senate amendment: both the House bill and the Senate amendment provide that regulations promulgated by the Secretary under section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 are deemed to have been promulgated under section 351A of the Public Health Service Act, as added by this Act. They both also provide that the FOIA exemptions apply retroactively to the effective date of the Antiterrorism and Effective Death Penalty Act of 1996.

Conference substitute: The Conference substitute adopts the same provisions.

Section 204. Conforming Amendment

House provision and Senate amendment: Both the House bill and the Senate amendment repeal those provisions of the Antiterrorism and Effective Death Penalty Act of 1996 that have been codified in section 351A of the Public Health Service Act by this Act.

Conference substitute: The Conference substitute adopts the same provisions.

Subtitle B—Department of Agriculture

Section 211. Short Title

House provision and Senate amendment: Neither the House bill nor the Senate amendment contain any analogous provision.

Conference substitute: The Conference substitute includes a new subtitle, with its own short title—the Agricultural Bioterrorism Protection Act of 2002.

Section 212. Regulation of Certain Biological Agents and Toxins

House provision and Senate amendment: Neither the House bill nor the Senate amendment contain any analogous provision.

Conference substitute: The Conference substitute adopts provisions that would grant comparable regulatory authorities to the U.S. Department of Agriculture (USDA) as those granted to HHS under subtitle A of this title for the regulation of possession, use or transfer of listed biological agents and toxins that present a severe threat to plant or animal health, or animal or plant products. In an effort to minimize regulatory duplication and burden, the substitute seeks to ensure, to the greatest extent practicable, uniformity in the statutory authority that the two departments will administer. Exceptions exist in the criteria to be used by the Secretary of Agriculture in developing a list of agriculturally significant biological agents and toxins; considerations to be made in granting exemptions from regulation under the statute; procedures related to civil monetary penalties; and the time frames for promulgation of a biological agents and toxins list and the accompanying requirement that individuals who possess these agents notify the Secretary of such possession. In addition, with respect to the screening of persons registering or accessing listed agents, the substitute uses the same screening categories as are in subtitle A, but does not mandate any denials of access, given that possession of USDA-listed agents by restricted persons is not a Federal crime. Instead, the Secretary and Attorney General are granted discretion as to how to proceed in such situations.

The Managers recognize that, under provisions of current law, biologics manufacturers have had to register, maintain associated paperwork, and be subject to inspections and requirements from both USDA and HHS. Likewise, the Managers are aware that the inadequacy of the penalty provisions of the Virus-Serum-Toxin Act—enacted in 1913 and under which USDA currently regulates these dangerous agents—as well as the lack of authority for the Secretary of Agriculture to regulate possession of biological agents and toxins that pose a severe threat to plant or animal health may expose the Unite States to potential acts of bioterrorism that could have a devastating impact on animal and plant health, or the domestic agricultural economy.

The Managers intend that, in developing the list of agents and toxins to be regulated under this subtitle, the USDA Secretary shall consult with other appropriate Federal agencies. With regard to zoonotic agents, which pose a threat to both animals and humans, the Managers expect that the USDA Secretary will consult with the HHS Secretary in developing such a list. The Managers also intend that the USDA Secretary will develop the list of regulated agents and toxins based solely on the risk to animals or plants, or to animal or plant products, including consideration of the effect of exposure on the production and marketability of such products. The Managers do not intend that the USDA Secretary will include an agent or toxin on the USDA list because of the effect of that agent or toxin on human health, which is governed by the statutory provisions of section 351A of the Public Health Service Act, as amended by this title.

The Managers expect that most ''persons'' who register under this subtitle will be public and private entities, rather than individuals. But these provisions also will cover individuals possessing, using or transferring listed agents who have not been granted authority to do so by registered persons. If an individual has not been granted such authority, then that individual would be a person required to register under this subtitle. If an individual has been granted such authority without proper authorization from the Secretary, as required by this subtitle, then the registered person is subject to any penalties provided for violation of such regulations. The Managers emphasize that the primary responsibility for registration and the screening of employees working with listed agents is with the entity or employer, not the individual employee.

Procedures for the registration of persons, review of individuals, and inspection of facilities have been described in the statutory language in some detail. Of equal importance to the Managers are the regulations, to be established by the Secretary, which, to ensure compliance with this substitute, shall include provisions for the revocation and suspension of registrations for failure to maintain safe and secure facilities.

Section 213. Implementation by the Department of Agriculture

House provision and Senate amendment: Neither the House bill nor the Senate amendment contain any analagous provision.

Conference substitute: The Conference substitute provides that, within 60 days of enactment, the Secretary of Agriculture shall promulgate an interim final rule that establishes an initial list of agents and toxins meeting the statutory criteria for enhanced regulation. Within 60 days of the publishing of the interim final rule, all persons (unless exempt) must notify the Secretary of such possession. Within 180 days of enactment, the Secretary shall promulgate an interim final rule for carrying out the remainder of section 212, which such rule shall include time frames that minimize disruption of ongoing research and education with listed agents and toxins.

Subtitle C—Interagency Coordination Regarding Overlap Agents and Toxins

Section 221. Interagency Coordination

It is the Managers' intent that the two Secretaries will coordinate closely with respect to exemptions from these new regulatory regimes for overlap agents, so as to create a uniform and consistent approach. The Managers also intend that, under the Memorandum of Understanding, a regulated party will interact with one agency with respect to all matters—including registration,

screening, and inspections—so as to avoid confusion and forum shopping. The Managers also expect that the two Departments will coordinate and consult with respect to overlap agent registration, screening, and exemptions in a timely manner, particularly in situations of public health or agricultural emergencies.

Within 18 months of the implementation of a Memorandum of Understanding between USDA and HHS, the Managers intend that a formal, joint regulatory system shall be implemented by the two Departments for agents and toxins that appear on both the USDA and HHS lists. Once implemented, the Managers intend that these joint regulations shall supercede the Memorandum of Understanding with respect to matters covered by such regulations.

Subtitle D—Criminal Penalties Regarding Certain Biological Agents and Toxins

Section 231. Criminal Penalties

House provision: The House bill authorizes amendments to current law to require all persons who possess, use of transfer biological agents or toxins that have been listed as select agents by the HHS Secretary to register with the Secretary. To enforce these new regulatory provisions, subsection (a) of section 231 of the House bill provides that any person who knowingly transfers a select agent to any person without first verifying such registration with the Secretary could be fined or imprisoned up to five years, or both. The subsection also provides that any person who knowingly possesses a biological agent or toxin, where such agent or toxin is a select agent for which such person has not obtained a registration required by the Secretary, could be fined or imprisoned for up to five years, or both.

The House bill makes technical changes to 18 U.S.C. 175b to renumber current subsection (a) as (a)(1), and to redesignate subsection (c) as (a)(2). This change will result in the description of the possible penalties being placed immediately following the description of the unlawful conduct. The House bill also redesignates subsection (b) as subsection (d). The two new criminal provisions added under this bill are designated subsections (b) and (c) of section 175b. The House bill also makes conforming amendments to clarify the definition of the term ''select agent.'' The House bill also changes the title of section 175b from ''Possession by restricted persons'' to ''Select Agents.''

Senate amendment: The Senate amendment includes the same criminal provision relating to those who possess select agents without being registered, but differs with respect to the criminal penalty for unauthorized transfers. The Senate amendment criminalizes transfers to unregistered persons when the transferor has reason to believe that the recipient is not registered. The Senate amendment also differs by including the unlawful conduct in 18 U.S.C. 175, rather than 175b. The Senate amendment makes conforming changes to 18 U.S.C. 175 to make the sections technically correct and to eliminate a definition that is already provided in another section. The Senate amendment provides that current 18 U.S.C. 175(b) and (c) are redesignated as (c) and (d). New subsection (b) creates the criminal penalties referenced above. New subsection (d), which contains the definitions, amends current law to provide new definitions for the following terms: ''biological agent,'' ''for use as a weapon,'' and ''select agent.''

Conference substitute: The Conference substitute adopts the House language with regard to technical changes to 18 U.S.C. 175b, but adopts the Senate language with respect to new criminal penalties with modifications. The Conference substitute adopts the common language dealing with unlawful possession. However, the Conference substitute amends the Senate language regarding transfers to provide that any person who transfers a select agent to any person one knows or has reasonable cause to believe has not registered with the HHS Secretary could be fined or imprisoned up to five years, or both.

The Conference substitute also amends both bills by adding language that requires all persons who possess, use or transfer biological agents that have been listed as agents that pose a threat to agriculture by the Secretary of Agriculture to register with such Secretary. The Conference substitute provides that knowing possession of a biological agent or toxin, where such agent or toxin is listed by the Secretary of Agriculture under this Act and for which a required registration has not been obtained, is punishable by a fine or up to five years imprisonment, or both. Similarly, transfer of a biological agent or toxin listed by the Secretary of Agriculture to a person one knows or has reasonable cause to believe has not registered with the Secretary is punishable by a fine or up to five years imprisonment, or both.

The Conference substitute also makes additional conforming and technical amendments to title 18, including providing a comma in 18 U.S.C. 175(c); specifically describing what activities restricted persons are prohibited from engaging in under this section; referring to the correct code section for the definition of ''alien''; replacing legislative language in 176(a)(1)(A); modifying the definitions in 18 U.S.C. 178 for ''biological agent'', ''toxin'', and ''vector'' to make each more accurate; and modifying 18 U.S.C. 2332a regarding use of weapons of mass destruction to make it clear it refers to use of biological agents or toxins.

The Managers expect that most ''persons'' who register under this title will be public and private entities, rather than individuals. When an entity fails to register as required, the new criminal possession statutes will apply to that entity. These provisions also will cover individuals possessing select or listed agents who are unregistered and who have not been granted access to such agents by registered persons. If an individual has not been granted access by a registered person, then that individual would be a person required to register under this title for purposes of these criminal possession provisions. If an individual is granted access to a select or listed agent by a registered person without proper authorization from the Secretary, as required by this title, then the registered person is subject to any penalties provided for violation of such regulations. The Managers emphasize that the primary responsibility for registration and the screening of employees working with select or listed agents is with the entity or employer, not the individual employee. This same analysis applies to the criminal transfer provisions set forth in this section.

TITLE III—PROTECTING THE SAFETY AND SECURITY OF THE FOOD AND DRUG SUPPLY

Subtitle A—Protection of Food Supply

For purposes of this Title, the term ''Secretary'' refers to the Secretary of Health and Human Services, unless otherwise indicated.

Section 301. Food Safety and Security Strategy

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment expands the responsibilities of the President's Council on Food and Safety (established by Executive Order 13100) by directing the Council, with the Secretary of Commerce and the Secretary of Treasury to develop a crisis communications and education strategy with respect to bioterrorist threats to the flood supply. The Senate amendment authorizes to be appropriated $500,000 to develop such a strategy.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute expands the scope of consultation between the President's Council on Food Safety and other entities to include any other relevant Federal agencies, including law enforcement and intelligence related agencies, and scientific organizations. The Conference substitute also expands the scope of the food safety and security strategy to address technologies, threat assessments, risk communication, and procedures for securing food processing and manufacturing facilities and modes of transportation. The Conference substitute increases the amount of funds that are authorized to be appropriated for fiscal year 2002 to $750,000 to develop such a strategy.

Section 302. Protection Against Adulteration of Food

House provision: The House bill authorizes to be appropriated $100,000,000 for fiscal year 2002, and such sums as may be necessary for each year from fiscal year 2003 thorugh fiscal year 2006, for the Secretary to carry out increased activities to ensure the safety of the food supply. Specifically, the House bill amends section 801 of the Federal Food Drug and Cosmetic act (FFDCA) directing the Secretary to give high priority to increasing the number of food safety inspections at ports of entry, with highest priority on inspections to detect intentional adulteration of food. The House bill also directs the Secretary to give a high priority to improving the information management systems that support food safety inspection programs for the purpose of improving the ability of the Secretary to detect intentional adulteration of food and to facilitate the importation of food that is in compliance with the Act. Further, the House bill directs the Secretary to give high priority to researching and developing improved tests and sampling methods for the purpose of rapidly detecting adulterated foods, with highest priority on detection of intentional adulteration. Finally, the House bill directs the Secretary to complete an assessment of potential threats to the food supply posed by efforts to intentionally adulterate food, and to report the findings on such assessment to Congress within six months.

Senate amendment: The Senate amendment authorizes to be appropriated $59,000,000 for fiscal year 2002 and such sums as may be necessary for each year thereafter to expand the capacity of the Food and Drug Administration (FDA) to increase inspections to ensure the safety of the food supply and to improve linkages between the FDA and other Federal regulatory agencies, the States, and Indian tribes.

Conference substitute: The Conference substitute adopts the House bill with modification. The Conference substitute directs the Secretary to improve linkages with other Federal regulatory agencies that share responsibility for food safety, and directs the Secretary to improve linkages with the States and Indian tribes with respect to food safety. The Managers intend that the Secretary in making improvements to the information management systems that support food safety inspection programs, including the OASIS system, may include improvements that assist food importers and filers in providing accurate and timely information on entries filed on food import shipments. The Managers also intend that in conducting research to develop improved tests and sampling methods for the purpose of rapidly detecting adulterated foods, the Secretary may

involve institutions of higher education, including such institutions that receive Federal funding to operate consortiums within the food industries, for the purpose of conducting research and development in food safety and food security. Finally, it is the understanding of the Managers that FDA already has underway (under agreement with Battelle Laboratories) an assessment of potential threats to the food supply posed by efforts to intentionally adulterate food. For purposes of this section, the requirement to conduct an assessment of potential threats to the food supply posed by efforts to intentionally adulterate food refers to such threat assessment that is already underway or very recently completed.

Section 303. Administrative Detention

House provision: The House bill amends section 304 of the FFDCA by authorizing the Secretary to administratively detain an article of food that is found during an inspection, examination or investigation under this Act if the Secretary has credible evidence or information indicating that the article presents a threat of serious adverse health consequences or death to humans or animals. Such food may be detained for a reasonable period of up to 20 days, and where needed up to 30 days, for the purpose of enabling the Secretary to institute a seizure action under section 304(a) or injunctive relief under section 302, as warranted. The House bill authorizes the Secretary to move detained food from the place at which it has been detained to a secured facility, as appropriate, for the period of detention or until released by the Secretary. The House bill also authorizes a claimant of an article of food that has been detained under this section to appeal the detention of the article. In addition, where the Secretary already has credible evidence or information indicating that an imported article of food presents a threat of serious adverse health consequences or death to humans or animals, this section also requires the Secretary to request the Secretary of Treasury to temporarily hold imported food at a port of entry for up to 24 hours to enable the Secretary to inspect, examine or investigate the food. For an article of food temporarily held under this section, the Secretary is also required to notify the State in which the port of entry is located about such request or that such food is being temporarily held.

Senate amendment: The Senate amendment provides authority to administratively detain food that is similar to the House bill. The Senate amendment allows the Secretary to detain food that violates the FFDCA and that presents a threat of serious adverse health consequences or death, and requires that the Secretary provide an opportunity for a hearing (and to confirm or to revoke) a detention order within 15 days of the filing of an appeal by a claimant. Unlike the House bill, the Senate amendment does not include additional authority to temporarily hold food, nor does it require the Secretary to notify a State regarding the port of entry within such State at which food is being temporarily held.

Conference substitute: The Conference substitute adopts the House bill with modification. The Conference substitute clarifies that food that is detained under this section may not be delivered pursuant to an execution of a bond in accordance with section 801 of the FFDCA (if the detained food is imported) or otherwise (if the detained food is domestically produced), while the food is subject to the detention order, unless released by the Secretary. The Conference substitute requires the Secretary in response to an appeal filed by a claimant challenging the detention of an article of food to conduct an informal hearing and confirm or terminate a detention order within five days after an appeal is filed, at which time the Secretary's determination is subject to judicial review in accordance with section 702 of title 5, United States Code. The Conference substitute amends section 304 of the FFDCA by authorizing the Secretary to detain an article of food for the purpose of enabling the Secretary to institute a seizure action under section 304(a) or to seek injunctive relief under section 302 of the Act. This section provides a claimant of the food the right to appeal a detention order, but that right of appeal terminates if the Secretary institutes either a seizure action under section 304(a) or injunctive relief under section 302 of the Act. The Managers do not intend to terminate the claimant's right to appeal a detention order under paragraph 4(B) of such subsection, unless the basis for the seizure action instituted under section 304(a) or the injunctive relief sought under section 302 is related to the original basis for detention under this section.

The Conference substitute provides that an article of food subject to detention shall be held in a secure facility, as appropriate. Under this title, in instances where the Secretary moves food that has been refused admission to a secure facility, the Secretary should ensure that such food will be held under appropriate conditions of cleanliness, temperature, humidity and other such considerations that are necessary so as not to erode the safety and wholesomeness of the detained article.

The Managers recognize that perishable foods may be detained under this section. As a result, the Secretary is required to promulgate a rule to establish expedited procedures for instituting an action under section 304(a) or section 302 of the FFDCA for perishable foods, such as fresh produce, fresh fish and fresh seafood products. The Secretary should promptly complete such rule making.

The Conference substitute requires the Secretary to temporarily hold food for not longer than 24 hours, where the Secretary has credible evidence or information indicating that such article of food presents a threat of serious adverse health consequences or death to humans or animals. The period of temporary hold is intended to allow the Secretary time to dispatch an inspector to the port of entry in order to conduct the needed inspection, examination or investigation.

Section 304. Debarment For Repeated or Serious Food Import Violations

House provision: The House bill provides authority to the Secretary to debar from importing articles of food, any person that is convicted of a felony relating to food importation or any person that repeatedly imports food and who knew, or should have known, that such food was adulterated. The House bill treats the importation or offer for importation of an article of food by a debarred person as a prohibited act under section 301 of the FFDCA.

Senate amendment. The Senate amendment includes permissive debarment authority for food importers that is similar to the permissive debarment authority of the House bill, but replaces the standard in the House bill, allowing debarment for repeatedly importing unsafe food, with a different standard allowing debarment of food importers for engaging in a pattern of importing unsafe food. Unlike the House bill, the Senate amendment treats food that is imported by a debarred person as adulterated.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. Unlike the Senate amendment, the Conference substitute does not treat food that is imported by a debarred person as adulterated solely on the basis of its importation by a debarred person. Rather the Conference substitute treats the importation or offering for importation into the United States of an article of food by, and with the assistance of, or at the direction of, a debarred person as a prohibited act under section 301 of the FFDCA. In addition, the Conference substitute requires food imported by a debarred person to be refused admission and held in a secure facility as appropriate, unless a person, other than a debarred person, affirmatively establishes that such food complies with the requirements of the FFDCA. The Conference substitute also clarifies that imported food that is refused admission may not be delivered pursuant to the execution of a bond under subsection (b) of section 801 of the FFDCA. For purposes of this section, the person other than the debarred person who may established that food, which has been refused admission under this section, is in compliance with this Act is intended to be an innocent purchaser of food, not a person that is engaged in the improper importation of food with a debarred person. In addition, the classification as a prohibited act (under section 301 of the FFDCA) of the importation or offer for importation of food ''with the assistance of'' a debarred person is not intended to include an innocent purchaser who did not have knowledge, actual or constructive, of the importer's debarred status. Finally, the Conference substitute clarifies that the Secretary has the authority to terminate the debarment of corporations or persons under this subsection.

Section 305. Registration of Food Facilities

House provision: The House bill requires facilities (excluding farms) that manufacture, process, pack or hold food for consumption in the United States to file with the Secretary, and keep up to date, a registration that contains the identity and address of the facility and, when the Secretary determines appropriate the general category of food manufactured, processed, packed or held at the facility. The House bill also authorizes the Secretary to exempt certain retail establishments only if the Secretary determines that the registration of such facilities is not needed for effective enforcement. Enforcement of this section is delayed one hundred and eighty days from the date of enactment, and this section requires the Secretary to notify and issue guidance within sixty days identifying facilities that are required to register under this section.

Senate amendment: The Senate amendment includes a requirement for certain food facilities to register with the Secretary that is similar to the registration requirement for food facilities that is contained in the House bill. The Senate amendment exempts types of farms or retail establishments but, unlike the House bill, farms can be exempted only if the Secretary determines that the registration of such facilities is not needed for effective enforcement of the FFDCA. The Senate amendment also lacks the requirements of the House bill relating to notice to those who must register and relating to electronic registration.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute requires the Secretary to establish registration requirements for specified food facilities by regulation not later than eighteen months after the date of enactment of this Act. If such regulations are not effective prior to the conclusion of such eighteen-month period, the requirements of this section are self-executing and enter into effect

at such time and remain in effect unless superseded by such final regulations. The Managers strongly encourage the Secretary to complete this rule making in a timely manner in order to enable the efficient operation of these registration requirements.

The Conference substitute treats the failure of a specified facility to register under this section as a prohibited act under section 301 of the FFDCA. The Conference substitute requires the Secretary to refuse admission to food imported from foreign facilities that have failed to register in accordance with this section until such facility is registered, and requires the Secretary to remove such food to a secure facility, as appropriate. The Conference substitute clarifies that imported food that is refused admission under this section shall not be delivered pursuant to the execution of a bond under subsection (b) of section 801 of the FFDCA.

The Conference substitute exempts from the requirements of registration farms, restaurants, other retail food establishments, non-profit food establishments in which food is prepared for, or served directly to, the consumer, and fishing vessels not engaged in processing, as defined in section 123.3(k) of title 21, Code of Federal Regulations. The Managers intend that, for purposes of this section, the term ''retail food establishments'' includes establishments that store, prepare, package, serve or otherwise provide articles of food directly to the retail consumer for human consumption, such as grocery stores, convenience stores, cafeterias, lunch rooms, food stands, saloons, taverns, bars, lounges, catering or vending facilities, or other similar establishments that provide food directly to a retail consumer. The term does not include a warehouse that does not provide articles of food directly to a retail consumer as its primary function. The Managers intend that, for purposes of this section, the term ''non-profit food establishments'' includes not-for-profit establishments in which food is prepared for, or served directly to the consumer, such as food banks, soup kitchens, homebound food delivery services, or other similar charitable organizations that provide food or meals for human consumption. In addition, the Managers intend that, for purposes of this section, ''facility'' does not include trucks or other motor carriers, by reason of their receipt, carriage, holding, or delivery of food in the usual course of business as carriers. In addition, nothing in this section shall be construed to alter or amend the treatment of carriers under section 703 of the FFDCA.

Finally, the Conference substitute calls for one-time registration of covered facilities, rather than annual registration of such facilities. Once a facility is registered it should amend its original registration in a timely manner to reflect any changes. The Conference substitute encourages electronic registration to help reduce paperwork and reporting burden, but registration is also promitted using a paper form.

Section 306. Maintenance and Inspectionse informa of Records for Foods

House provision: The House bill provides the Secretary with authority to inspect and copy all records relating to an article of food if the Secretary has credible evidence or information indicating that an article of food presents a threat of serious health consequences or death to humans or animals. The House bill contains certain limitations on the Secretary's authority, including limitations to ensure the protection of trade secrets and confidential information. The House bill provides the Secretary with the discretion to issue a regulation requiring maintenance of additional records that are needed to identify the source and chain of distribution of food, in order to address credible threats of serious adverse health consequences or death to humans or animals. The House bill excludes restaurants and farms, and the Secretary is provided the authority to take into account the size of the business when imposing any record keeping requirements.

Senate amendment: The Senate amendment includes records access authority that is similar to the records access authority granted to the Secretary in the House bill. The Senate amendment authorizes the Secretary to inspect and copy records relating to the violation when he has a reason to believe that an article of food is adulterated or misbranded and presents a threat of serious adverse health consequences or death. The Senate amendment also includes record keeping authority that is similar to the record keeping authority in the House bill. The Senate amendment requires the Secretary to issue a regulation to require the maintenance and retention of records to trace the chain and distribution of food within 18 months of enactment of the Act. In addition, the Senate amendment allows the Secretary to require maintenance and retention of records necessary to determine if a food may be adulterated or misbranded to the extent that it presents a threat of serious adverse health consequences or death. The Senate amendment limits the Secretary's authority to require the retention of either type of records for not longer than two years. The Senate amendment also criminalizes the release of trade secret information obtained by inspection of records under this section.

Conference substitute: The Conference substitute adopts the House bill with modification. The Conference substitute replaces the standard for records acccess in the House bill with a different standard that grants the Secretary records access if the Secretary has a reasonable belief that an article of food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals. The Conference substitute limits access to those records relaitng to such artricle of food that are needed to assist the Secretary in determining whether food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals.

The Conference substitute amends the scope of record keeping authority contained in the House bill by clarifying that the authority under this section applies to both the establishment and maintenance of records that meet the standard under this section and by limiting the record retention requirement to a period of not longer than 2 years. The Conference substitute also adopts the requirement of the Senate amendment to criminalize the disclosure of trade secrets obtained under this section.

The Conference substitute authorizes the issuance of regulations to require establishment and maintenance of chain of distribution records. This authority should not be used to require a business to maintain records regarding transactions or activities to which it was not a party. The Managers intend that those records that document the person from whom food was directly received, and to whom food was directly delivered, are adequate to enable identification of the source and distribution of food. As a result, for purposes of this section, the terms ''immediate previous sources'' and ''immediate subsequent recipients'' refer to the person from whom the food was received and the person to whom the food was delivered, respectively.

The Managers did not adopt a Senate proposal to authorize the Secretary to require the maintenance and retention of other records for inspection relating to food safety, because the Secretary has authority under section 701(a) of the FFDCA to issue regulations for the ''efficient enforcement of this Act'' and this authority, in combination with other provisions (such as section 402), gives the Secretary the authority to require appropriate record keeping in food safety regulations.

Section 307. Prior Notice of Imported Food Shipments

House provision: The House bill directs the Secretary by regulation to require importers of articles of food to provide up to seventy-two hours, but not less than twenty-four hours, prior notice that food will be imported or offered for import into the United States. The House bill requires that the notice contain the following information: a description of food to be imported; the identity of the manufacturer and shipper; and, if known within the specified period of time that notice is required to be provided, the identity of the grower; the country of origin of the article; the country from which the food is being shipped; and the anticipated port of entry into the United States. In the event notice is not provided in advance of importation in accordance with the Secretary's regulation, the food shall be held at the port of entry until notice is properly provided and the Secretary determines whether there is credible evidence or information in his possession indicating that the article presents a threat of serious adverse health consequences or death to humans or animals.

Senate amendment: The Senate amendment, like the House bill, includes a requirement that food importers provide prior notice to the Secretary of incoming food imports. The Senate amendment differs from the requirement in the House bill, because the prior notice requirement in the Senate amendment is self-effectuating upon enactment of the Act and requires at least four hours minimum prior notice and no limitation on the maximum notice allowable. The Senate amendment requires that the notification contain the identity of the food, the food's country of origin, the quantity imported, and other information that the Secretary may require by regulation. Finally, if an importer fails to provide the required prior notice, under the Senate amendment the Secretary is provided with discretion to refuse admission into the United States of the food.

Conference substitute: The Conference substitute adopts the House amendment with modification. The Conference substitute requires the Secretary to establish by regulation the period of time for prior notice, that must be no less than the minimum amount of time necessary for the Secretary to receive, review, and appropriately respond to the notice, but that may not exceed five days. In determining the specified period of time for prior notice, by regulation, the Conference substitute identified several factors the Secretary may take into account, including the effect on commerce, the locations of various ports of entry, the various modes of transportation, the types of food imported into the United States, and other such considerations. Nothing in the preceding sentence may be construed as a limitation on the obligation of the Secretary to receive, review, and appropriately respond to any notice under this section.

The Conference substitute treats the failure to provide adequate prior notice under this section as a prohibited act under section 301 of the FFDCA. The Conference substitute requires the Secretary to refuse admission to food imported without properly providing prior notice in accordance with this section until such prior notice is properly provided. In addition, the Conference substitute requires the Secretary to remove such food to

a secure facility, as appropriate and clarifies that imported food that is refused admission under this section shall not be delivered pursuant to the execution of a bond under subsection (b) of section 801 of the FFDCA.

The Conference substitute directs the Secretary to establish prior notice requirements for imported foods by regulation not later than eighteen months after the date of enactment of this Act. If such regulations are not effective prior to the conclusion of such eighteen-month period, the requirements of this section are self-executing and enter into effect at such time and remain in effect unless superseded by such final regulations. In addition, at the conclusion of the eighteen-month period, if such final regulations are not effective, the Conference substitute establishes a default period of time for prior notice of not less than 8 hours and not more than 5 days that remains in effect unless superseded by such final regulations. The Managers strongly encourage the Secretary to complete this rule making in a timely manner in order to enable the efficient operation of these requirements.

The Managers intend that the requirements of this section should not be construed to apply to packaging materials if, at the time of importation, such materials will not be used for, or in contact with, food as defined under section 201 of the FFDCA. Nothing in this section shall be construed to alter or amend the regulatory treatment of food packaging materials or food contact substances under the FFDCA. Also, the Conference substitute requires the importer of an article of food to provide information about the grower of the article of food, but this provision only requires the importer to provide the identity of the grower of the article of food if known during the period of time in which prior notice is required to be provided. Finally, the Secretary shall consult and coordinate with the Secretary of Treasury in developing the prior notice regulation. This section of the Conference substitute contains prior notice requirements for imported food and is not intended as a limitation on the port of entry for an article of food.

Section 308. Authority to Mark Articles Refused Admission into United States

House provision: The House bill requires that food that has been refused admission to the United States, but has not been ordered destroyed, may have a label affixed to its container at the expense of the owner or consignee indicating that it has been refused admission.

Senate amendment: The Senate amendment, similar to the House bill, includes authority regarding the marking of food that has been refused admission into the United States. Unlike the House bill, the Senate amendment provides the Secretary with a broader authority than the House bill to mark foods as refused admission, including foods that have not been determined to present a threat of serious adverse health consequences or death to humans or animals. The Senate contains an enforcement provision under which food that has been refused admission but that has not been properly marked as refused admission is treated as misbranded if it is determined that it presents a threat of serious adverse health consequences or death to humans or animals.

Conference substitute: The Conference substitute adopts the House bill with modification. The Conference substitute provides the Secretary with discretionary authority to require that items that have been refused admission to the United States under section 801 of the FFDCA shall be so marked. The Conference substitute clarifies that the marking of such items may be applied to the container of the food. The Conference substitute also requires the Secretary to notify the owner or consignee of an article of food that has been refused admission and that has been required to be so marked under this section, if at some time subsequent to requirement to mark the food, the Secretary determines that the food is misbranded and presents a threat of serious adverse health consequences or death to humans or animals.

Nothing in this section shall be construed to alter or amend the authority of the Secretary to authorize the admission of an article of food that has been relabeled, reconditioned or otherwise brought into compliance with the Act in accordance with subsection (b) of section 801 of the Act.

Section 309. Prohibition Against Port Shopping

House provision: The House bill requires any person attempting to re-offer for admission an article of food at a port of entry into the United States, after it has been previous refused admission at another port of entry into the United States, to affirmatively establish that the food is not adulterated.

Senate amendment: The Senate amendment contains a prohibition against port shopping that is comparable to the prohibition contained in the House bill. The Senate amendment prohibits a person from port shopping with respect to food that has been refused admission, by requiring that the person show that food that has been refused admission previously, has been brought into compliance with the applicable requirements of the FFDCA.

Conference substitute: The Conference substitute adopts the Senate amendment without modification.

Section 310. Notice to States Regarding Imported Food

House provision: The House bill requires that where the Secretary has credible evidence or information indicating that an article of food presents a threat of serious adverse health consequences or death to humans or animals, the Secretary shall provide notice regarding the threat posed by such food to those States in which the food is held or will be held and shall request that such States take appropriate remedial action.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House bill with modification. The Conference substitute clarifies the scope of the rule of construction included in subsection (b) of this section.

Section 311. Grants to States for Inspections

House provision: The House bill authorizes the Secretary to make grants for increased food safety inspections, examinations, investigations and related activities and to assist States in taking appropriate actions to respond to any Federal notice received pursuant to section 309 (governing notice to States) of the House bill. The House bill authorizes to be appropriated such sums as may be necessary for fiscal year 2002 through fiscal year 2006 to establish and carry out the grants under the section.

Senate amendment: The Senate amendment authorizes the Secretary to make grants to States, territories, and Federally recognized tribes to cover the cost of food safety examinations, inspections, investigations, and related activities under section 702 of the FFDCA, and it authorizes to be appropriated $10 million in fiscal year 2002 and such sums as may be necessary for each year thereafter for such purpose.

Conference substitute: The Conference substitute adopts the House bill with modification. The Conference substitute extends the grants made available under this section to Indian tribes to the extent they undertake inspections, investigations or examinations under section 702 of the FFDCA. The Conference substitute authorizes to be appropriated $10 million in fiscal year 2002 and such sums as may be necessary for each fiscal year 2003–2006 for such purpose.

Section 312. Surveillance and Information Grants and Authorities

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment authorizes the Secretary to award grants to States to increase participation in Pulsenet, the Foodborne Diseases Active Surveillance Network, and other such networks, and authorizes to be appropriated $19.5 million in fiscal year 2002, and such sums as may be necessary each year for such purpose from fiscal year 2003 through fiscal year 2006.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Managers intend that funds awarded under this section shall be used by States and Indian tribes to assist in meeting the costs of establishing and maintaining the food safety surveillance, technical and laboratory capacity needed to participate in programs, including Pulsenet, Foodborne Diseases Active Surveillance Network, and other networks to enhance Federal, State, and local food safety efforts.

Section 313. Surveillance of Zoonotic Disease

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment requires the Secretary of Health and Human Services and the Secretary of Agriculture to develop and implement a plan for the surveillance of zoonotic and human disease.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute directs the Secretary, through the Commissioner of FDA and the Director of the Centers for Disease Control and Prevention (CDC), and the Secretary of Agriculture to coordinate the surveillance of zoonotic diseases.

Section 314. Authority to Commission Other Federal Officials to Conduct Inspections

House provision: The House bill does contain no analogous provision.

Senate amendment: The Senate amendment includes authority that is not included in the House bill that allows the Secretary to commission officers and qualified employees of other Federal Departments or Federal agencies to conduct examinations and inspections for the Secretary under section 702 of the FFDCA.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute clarifies that the authority of the Secretary to commission other Federal officials to conduct inspections, examinations and investigations under section 702 of the FFDCA shall be carried out pursuant to a memorandum of understanding between the Secretary and the head of the Department or agency of such other Federal employees.

Section 315. Rule of Construction

House provision: The House bill does contain no analogous provision.

Senate amendment: The Senate amendment includes a rule of construction that applies to the amendments made in Title V of the Senate amendment that provides that such amendments do not provide the FDA with additional authority over meat, poultry, and egg products, nor do such amendments limit the authority of the Department of Agriculture over such products.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute

clarifies that nothing in this Title, or an amendment made by this Title, shall be construed to alter the jurisdiction between the Secretary and the Secretary of Agriculture, under applicable statutes and regulations.

Subtitle B—Protection of Drug Supply

Section 321. Annual Registration of Foreign Manufacturers; Shipping Information; Drug and Device Listing

House provision: The House bill mandates annual registration of foreign manufacturers engaged in the import of drug and device products into United States. The House bill also requires that the annual registration include information on each importer or carrier transporting the foreign manufacturer's drug or device products. The House bill also directs that the registration and listing numbers be included in the declaration for the products when offered for import.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House bill with modification. The conference substitute requires registration through electronic means. The Conference substitute deletes carrier in the annual registration and replaces with ''person who imports or offers for import.'' The Conference substitute makes non-registration a prohibited act rather than deeming it misbranded. Non-registration is a failure to comply with the Secretary's request to submit registration information. The Conference substitute provides for a non-registered drug or device to be removed to a secure facility until non-registration is cured. For purposes of this section, the Managers intend ''person who imports or offers for import'' to capture import brokers and other persons who file import-related paperwork with the U.S. Customs Service or the FDA.

Section 322. Requirement of Additional Information Regarding Import Components Intended for Use in Export Products

House provision: The House bill mandates a chain of possession identification and a customs bond for those firms that seek to import components of drugs, devices, food additives, color additives, or dietary supplements for further processing and export. The House bill requires certificates of analysis for components containing any chemical substance or biological substance intended for export.

Senate provision: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House bill with modification. The Conference substitute deletes reference to carriers in chain of possession identification. The Conference substitute exempts devices and products covered by section 801(d)(4) of the FFDCA from the certificate of analysis requirement. The Conference substitute clarifies that the provisions permitting import-for-export do not apply to articles for which the Secretary of Health and Human Services determines that there is credible evidence or information indicating the article is not intended to be imported for export.

The Managers understand this section does not change any definitions of regulated articles or the scope of regulation of those articles as set forth in the FFDCA and its implementing regulations.

The Managers intend that this section shall not be construed to restrict or facilitate the entry of articles imported for research and development or quality assurance purposes under subsection 801(d)(3) of the FFDCA beyond the existing authority.

For the purposes of articles subject to subsection 801(d)(4) of the FFDCA, the Managers understand that the collection agency would be considered the first manufacturer under subsection 801(d)(3)(A)(i)(II) of the FFDCA, relating to the chain-of-possession.

The Managers agree that certificates of analysis are not required if the only chemical or biological component of the article imported under subsection 801(d)(3) of the FFDCA is de minimis, incidental and poses no danger to human or animal health. Further, the Managers expect that the Secretary will understand that ''certificate of analysis'' is a widely understood and utilized document to assure the identity of the substance and its components in the chemical and drug industries. However, the Secretary in consultation with other affected industries may accept documents that convey equivalent assurance as to the identity of the article and its components or substances. For example, the Secretary may determine that for an article of food additive or color additive, a document indicating specification of purity serves as the functional equivalent of a certificate of analysis and meets the requirement of a certificate analysis for purposes of this section. This section exempts devices and blood and blood products covered under subsection 801(d)(4) of the FFDCA from the certificate of analysis requirement.

The Managers do not intend the Secretary of the Treasury to engage in a new rulemaking to specify the requirement for the bonding of goods imported under subsection 801(d)(3) of FFDCA. Existing requirements for the bonding of goods imported for further processing and export should be applied.

The Managers agree that articles imported for export under this section 322 which otherwise meet the requirements of this section should be permitted entry unless the Secretary determines there is credible evidence or information that an article offered for import is not intended to be imported for export. In this regard, the Managers believe that refusal of entry should not involve shipments between known shippers and known recipients unless the Secretary has received credible evidence or information that suggests such shipments may not be legitimate. The Managers intend to permit the Secretary to refuse admission of articles if the Secretary determines there is credible evidence or information that the articles may be used as instruments of terror. Such evidence might include highly toxic or otherwise exceptionally dangerous products going to recipients unknown to the Secretary or to recipients believed to lack the capacity to further process such dangerous articles, for example, nitroglycerin imported under this section for delivery to a business other than a pharmaceutical manufacturer. Such standard may also include, for example, presentation for entry of articles not consistent with the accompanying documentation.

Subtitle C—General Provisions Relating to Upgrading of Agricultural Security

Section 331. Expansion of Animal and Plant Health Inspection Service Activities

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment requires the Secretary of Agriculture to enhance and expand the capacity of the Animal and Plant Health Inspection Service (APHIS) to protect against the threat of bioterrorism, including through increased inspection capacity internationally, improved surveillance at ports of entry, and enhanced protections against terrorist use of plant and animal disease organisms. The Senate amendment also requires the Secretary of Agriculture to implement and then expand a high-tech agriculture early warning and emergency response system, as well as an automated record keeping system to track animal and plant shipments. The Senate amendment authorizes the appropriation of $30 million in fiscal year 2002 and such sums in each year thereafter, as may be necessary for such purposes.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute clarifies that this section provides additional authorization of appropriations to the Secretary of Agriculture to utilize existing authorities to give high priority to enhancing and expanding the capacity of APHIS to conduct the specified activities and to otherwise improve the capacity of APHIS to protect against the threat of bioterrorism. The Conference substitute authorizes to be appropriated $30 million for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

Section 332. Expansion of Food Safety Inspection Service Activities

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment requires the Secretary of Agriculture to enhance and expand the capacity of the Food Safety Inspection Service (FSIS) to protect against the threat of bioterrorism, including through enhanced ability to inspect meat and poultry products and increased inspections of meat and meat products, poultry and poultry products, and egg products at ports of entry. The Senate amendment authorizes the appropriation of $15 million in fiscal year 2002 and such sums in each year thereafter, as may be necessary for such purposes.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute authorizes to be appropriated $15 million in fiscal year 2002 and such sums in each year thereafter, as may be necessary for the the purpose of providing additional authorization to the Secretary of Agriculture to utilize existing authorities to give high priority to enhancing and expanding the capacity of FSIS to conduct the specified activities and to otherwise improve the capacity of FSIS to protect against the threat of bioterrorism.

Section 333. Biosecurity Upgrades at the Department of Agriculture

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment authorizes to be appropriated $180 million in fiscal year 2002 to update, renovate, and expand the Department of Agriculture laboratory and research facilities at Plum Island Animal Disease Center and the Agricultural Research Service and Animal and Plant Health Inspection Service facility in Ames, Iowa, and also authorizes such sums as may be necessary in each year from fiscal year 2003 through fiscal year 2006, for those facilities, and for similar improvements at two other Department of Agriculture facilities, one in Athens, Georgia, and the other in Laramie, Wyoming.

Conference substitute: The Conference substitute adopts the Senate amendment without modification. In addition to the biosecurity upgrades at the Department of Agriculture authorized in this section, the Managers intend that the Secretary of Health and Human Services shall also continue to take such actions as may be necessary to secure existing facilities of the Department of Health and Human Services where potential animal and plant pathogens are housed and researched.

Section 334. Agricultural Biosecurity

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment requires the Secretary of Agriculture to establish minimum security standards and

award grants of up to $50,000 to land grant universities to assess security needs and plan upgrades of both security of facilities where hazardous biological agents or toxins are stored or used, and communication networks about such agents or toxins, as well as to develop a national inventory of such agents and toxins. The Senate amendment also requires the Secretary of Agriculture to provide for screening of personnel who require access at agricultural research facilities, and to develop and implement educational programs directed at biosecurity at agricultural facilities, including farms, livestock confinement operations, and crop producers, handlers, processors, and transporters, as well as educational programs related to animal quarantine and testing. The Senate amendment authorizes to be appropriated $20 million in fiscal year 2002 and such sums in each year thereafter, as may be necessary for such purposes.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute authorizes to be appropriated such sums as may be necessary for the Secretary of Agriculture to award grants of up to $50,000 each, to colleges and universities that have food and agricultural science programs to review security standards and practices at their facilities in order to protect against bioterrorist threats. The Conference substitute also authorizes the Secretary of Agriculture to award grants, of up to $100,000 per association, to associations of food producers or consortia of such associations for the development and implementation of educational programs to improve bio-security on farms against bioterrorist attacks.

Section 335. Agricultural Bioterrorism Research and Development

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment requires the Secretary of Agriculture, to the maximum extent practicable, to expand research and development programs of the Agricultural Research Service and the Cooperative State Research Education and Extension Service to protect the nation's food supply from bioterrorism, including by enhancing their capability to respond to the needs of other food and agricultural regulatory agencies, continuing existing partnerships with institutions of higher education with programs related to agricultural biosecurity, and by strengthening linkages with the intelligence community. The Senate amendment authorizes the appropriation of $190 million in fiscal year 2002 and such sums in each year thereafter, as may be necessary for such purposes.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute authorizes to be appropriated $190 million in fiscal year 2002 and such sums in each year thereafter, as may be necessary for the Secretary of Agriculture to utilize existing research authorities and programs to protect the food supply of the United States by conducting various research activities, including developing new and continuing partnerships with institutions of higher education and other institutions to establish and enhance bio-security and food safety programs, with special emphasis on vulnerability analyses, incident response, detection and prevention technologies. The Conference substitute also authorizes the Secretary of Agriculture to continue research to develop improved rapid detection field test kits to detect biological threats to plants and animals for use in responding to bioterrorism, and to develop an agriculture bioterrorism early warning surveillance system by enhancing the capacity of and coordination between State veterinary diagnostic laboratories, Federal and State agricultural research facilities, and public health agencies.

Section 336. Animal Enterprise Terrorism Penalties

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute amends section 43(a) of title 18, United States Code, establishing a Federal criminal offense against a person traveling in interstate or foreign commerce for intentionally damaging or causing the loss of any property used by the animal enterprise, or conspiring to do such activities. The Conference substitute establishes penalties for such criminal offense and authorizes restitution for economic damage resulting from the loss.

TITLE IV—DRINKING WATER SECURITY AND SAFETY

The conference agreement builds upon title IV of the House bill to ensure that drinking water systems across the country assess their vulnerability to terrorist attack and develop emergency plans to prepare for and respond to such attacks. Americans deserve to know that the water they drink everyday is safe. The legislation will lay the groundwork for developing the necessary information, and emergency planning and response efforts that are needed to address potential terrorist attacks at drinking water systems.

Section 401. Terrorist and Other Intentional Acts

House provision: The House bill requires community water systems serving over 3,300 persons to conduct vulnerability assessments. These requirements are phased-in, depending on the size of the community water system. Community water systems serving over 100,000 persons must complete a vulnerability assessment by December 31, 2002; community water systems serving over 50,000 persons must complete a vulnerability assessment by June 30, 2003; community water systems serving over 3,300 persons must complete a vulnerability assessment by December 31, 2003. Each community water system must certify to the Administrator of the Environmental Protection Agency (EPA) that they have conducted a vulnerability assessment. The Administrator of EPA is also required to provide baseline information by June 1, 2002 regarding which kinds of terrorist attacks or other intentional acts are probable threats.

The House bill also requires community water systems to prepare or revise emergency response plans that incorporate the results of the vulnerability assessments. Community water systems must certify to the Administrator of the Environmental Protection Agency within 6 months of the completion of a vulnerability assessment that they have completed an emergency response plan. To the extent possible, community water systems are to coordinate with Local Emergency Planning Committees when preparing or revising an emergency response plan. The House bill additionally requires EPA to provide guidance to community water systems serving under 3,300 persons on how to conduct vulnerability assessments and prepare emergency response plans.

In order to carry out the provisions of the section, the House bill authorized $120 million in Fiscal Year 2002 and such sums as necessary in Fiscal Years 2003 and 2004. The funds are made available for purposes of complying with vulnerability assessment and emergency response plan requirements and to address basic security enhancements of critical importance and significant threats to public health as determined by a vulnerability assessment.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision with modifications. The Conference substitute extends dates for certifying that systems have completed a vulnerability assessment by three months for systems serving over 100,000 persons and by six months for all other systems. The substitute also extends the time for EPA baseline information to August 1, 2002 to reflect the passage of time between House action and conference agreement.

The Conference substitute also adds the requirement that community water systems provide a copy of their vulnerability assessment to the Administrator of the EPA. Under the conference substitute, however, information that is provided by a community water system to EPA and information that is derived thereof is exempt from disclosure under the Freedom of Information Act except for information that identifies the community water system and the date on which a community water system certifies to EPA that it has completed a vulnerability assessment. In addition, no community water system shall be required under State or local law to provide an assessment to any State, regional or local governmental authority solely by reason of the requirements to submit such assessment to the Administrator of EPA.

The Administrator of the EPA is also required, by November 30, 2002 to develop protocols to protect the assessments from unauthorized disclosure. These protocols shall ensure that all assessments and information are kept in a secure location, only individuals designated by the Administrator have access and that assessment in whole or in part or information contained or derived from such assessments shall not be available to anyone other than individuals designated by the Administrator.

The Conference substitute also provides that any individual designated by the Administrator who acquires assessments or information derived from assessments and who knowingly or recklessly reveals such information other than to an individual designated by the Administrator shall be subject to up to 1 year imprisonment, or a fine in accordance with 16 U.S.C. 227 and shall be removed from Federal office or employment unless the information is revealed for purposes of section 1445 of the Act, or actions taken under section 1431 of the Act, or for use in any administrative or judicial proceeding to impose a penalty to failure to comply with section 1433 of the bill. The substitute further provides that an individual designated by the Administrator who is an employee or officer of the United States may discuss the content of a vulnerability assessment submitted under this section with a State or local official. The Conference substitute provides that nothing authorizes any person to withhold any information from Congress.

The Conference substitute adds the requirement that each community water system maintain a copy of the emergency response plan it has completed for 5 years after it certifies to the Administrator of the EPA that it has completed such plan. The Conference agreement also increases authorized funding for Fiscal Year 2002 to $160 million and adds additional specification of basic security enhancements. The Conference Agreement also extends authorizations in this section through Fiscal year 2005. Finally, the Conference agreement provides that not more than $5,000,000 of the funds made available under the section may be used by the

Administrator of EPA for immediate and urgent security needs and for grants for community water systems under 3,300 in accordance with the guidance provided by EPA under the section.

Section 402. Other Safe Drinking Water Act Amendments

House provision: The House bill provides for a review of current and future methods to prevent, detect and respond to the intentional introduction of chemical, biological and radiological contaminants into community water systems and source water for community water systems. The review is to encompass methods and means to detect contaminants, to provide sufficient notice of contaminated drinking water, to negate or mitigate deleterious effects on public health and to conduct biomedical research.

The House bill also provides for a review of methods and means by which terrorists or other individuals or groups could disrupt the supply of safe drinking water or render a public water system significantly less safe for human consumption. The House bill required a review of the methods and means by which pipes, constructed conveyances, collection, pretreatment, storage or distribution facilities would be destroyed or otherwise prevented from providing adequate supplies of drinking water and methods and means by which they could be protected. The House bill also required a review of methods and means by which such items could be subjected to cross-contamination and a review of methods and means by which alternative supplies of water could be provided in the event of destruction, impairment or contamination of public water systems. The House bill authorized $15,000,000 in Fiscal Year 2002 to carry out sections 1434 and 1435 and such sums as may be necessary for Fiscal Years 2003 and 2004.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision with modifications. The Conference substitute includes further specification in section 1434 as to the detection of various levels of contaminants and indicators of contaminants using methods, means and equipment that include real time monitoring systems. The Conference substitute additionally requires methods and means for developing education and awareness programs for community water systems.

The conference substitute also adds additional specification to the reviews undertaken under section 1435 to include methods and means by which information systems, including process controls, supervisory control and data acquisition and syber systems could be disrupted by terrorists or other groups. The Conference substitute also includes additional requirements and considerations that are applicable in the implementation of sections 1434 and 1435. These requirements and considerations include the assurance that reviews reflect the needs of various community water system sizes and geographical locations, the vulnerability of regions or service areas, including the National Capitol area, and that the Administrator of EPA disseminate certain information through the Information Sharing and Analysis Center. The Conference substitute also provides such sums as may be necessary in Fiscal Year 2005.

Section 403. Miscellaneous and Technical Amendments

House provision: The House bill provides that section 1433 be included as a cross-reference in section 1414(i)(1) on the Safe Drinking Water Act (SDWA), that section 1431 of the SDWA be amended, that existing penalties for tampering with drinking water systems under section 1432 be increased and that section 1442 of the SDWA be amended to provide authorization for $35 million in Fiscal Year 2002 and such sums as may be necessary in fiscal years thereafter.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The conference substitute adopts the House provisions. The conferees encourage the committees of jurisdiction in the House and Senate to develop comparable legislation covering publicly owned treatment works in this legislative session. The conferees encourage EPA to work closely with organizations representing small and rural water systems to implement the provisions of this Title.

TITLE V—ADDITIONAL PROVISIONS

The Managers agree to the following provisions.

Subtitle A—Prescription Drug User Fees

Section 501. Short Title

Designates the name of this title as the ''Prescription Drug User Fee Amendments of 2002.''

Section 502. Findings

Declares the findings of Congress related to the reauthorization of prescription drug user fees.

Section 503. Definitions

The following terms in section 735 of the Federal Food, Drug, and Cosmetic Act (FFD&C Act) (21 U.S.C. 379g) are modified by this section: human drug application, prescription drug product, process for the review of human drug applications, and adjustment factor. These modifications are necessary to give effect to the changes instituted by the reauthorization of the Prescription Drug User Fee Act (PDUFA).

The term ''human drug application'' is modified to make a technical correction.

The term ''prescription drug product'' is modified to allow the Secretary to use the Prescription Drug Product List (the active portion) in the ''Approved Drug Products with Therapeutic Equivalence Evaluations,'' (the Orange Book) as the basis for identifying which products should be considered to be prescription drug products for fee assessment purposes. The Managers expect that these proposed changes will lead to a more efficient, less burdensome, billing procedure. Under current law, any prescription drug product eligible for drug listing is subject to product fees. Determining eligibility for listing is administratively complex and sometimes resource intensive. In addition, listing is often controlled by a re-packer or distributor rather than by the sponsor, but the sponsor must nonetheless pay the product fee. The Managers expect that the use of the Orange Book, which is found on FDA's Internet site, as the basis to identify products for user fee assessment purposes will not be construed to affect the legal status of the book or the products in the book. The purpose of using this method is merely a tool for the Secretary to provide a public, efficient billing process. It also provides sponsors an easier way to remove products from the list that is the basis for billing.

Also, the addition of the reference to the list of products approved under human drug applications under section 351 of the Public Health Service Act created and maintained by the Secretary refers to the current FDA method of identifying biological products considered to be prescription drug products for fee assessment determinations. The Managers do not intend this to be a change in practice; rather it documents FDA's current practice. The list is to be provided on FDA's Internet site.

A further change to the term ''prescription drug product'' deletes the clause ''does not include a large volume parenteral drug product approved before September 1, 1992.'' As a result, any large volume parenteral (LVP) product is treated as a prescription drug product and is subject to a fee. However, when coupled with a corresponding change proposed to section 736(a)(3)(B), all LVP's would be exempt from product fees in this reauthorization, including products approved after September 1, 1992. The Managers intend this change to decrease FDA's administrative burden in determining which products should be billed.

The term ''process for the review of human drug applications'' is modified to allow the use of funds, for a period of up to three years after approval, to cover risk management activities for products approved after October 1, 2002. This change is highly important to the Managers, as improving drug and biological product safety is a goal shared by all.

The term ''adjustment factor'' is modified to eliminate obsolete provisions.

Section 504. Authority to Assess and Use Drug Fees

Subsection (a) of this section allows fees authorized by the Act to be assessed beginning on October 1, 2002. With respect to prescription drug establishment fees and prescription drug product fees, the subsection advances the date by which fees are payable to October 1 of each year.

Under the second Prescription Drug User Fee Act (PDUFA), prescription drug establishment and product fees, which represent two-thirds of PDUFA fees were due January 31, four months into the fiscal year. This necessitated carrying forward funds from a previous year to sustain operations for the first four months of each new fiscal year. By advancing the date for annual fees to be paid to FDA, the necessity of carrying forward these large cash surpluses from year to year is eliminated. Also, by making this change effective for FY 2003, FDA will have access to revenue as early in FY 2003 as invoices can be issued and fees collected rather than having to wait until January 31 to collect funds. This is especially important for FDA operations in FY 2003 because the agency does not expect to have any appreciable carryover funds at the end of FY 2002.

Making the fee due and payable on October 1 necessitates other changes to the FFD&C Act that are executed in subsection (e) and (f) of this section.

This section sets forth a table containing the application, establishment, and product fee revenues, and total fee revenue, for fiscal years 2003 through 2007. The subsection further authorizes an increase in fee revenue amounts to fully fund the portion of additional costs attributable to the cost of the retirement of Federal personnel. This provision would go into effect, if, after the enactment of the Prescription Drug User Fee Amendments of 2002, legislation is enacted requiring the Secretary to fund additional costs of the retirement of Federal personnel.

This section also authorizes inflation adjustments, workload adjustments, and a final year adjustment. Under present law, annual inflation adjustments were based on the higher of the federal pay raise applicable for employees in the fiscal year for which the fees were set or the CPI for the previous year. In order to collect fees on October 1, FDA will have to set fees and issue invoices in August of each year well before the pay-raise determination for the next fiscal year is made. For this reason the inflation adjustment factors have been changed to the Federal pay raise for employees in the Washington, D.C., area for the previous fiscal year or the change in the CPI for the 12 month period ending June 30, whichever is higher. Both of these figures will be available in August when fees must be set. As has been the

case in the past, these inflationary changes will continue to be cumulative and compounded.

Under the workload adjustment, annual revenue adjustments are made that reflect changes in review workload, after inflation adjustments. the workload adjustment is to be determined by the Secretary based on a weighted average of the changes in the total number of (1) human drug applications, (2) commercial investigational new drug applications, (3) efficacy supplements, and (4) manufacturing supplements. The subsection provides that the Secretary shall publish in the Federal Register the fees resulting from this adjustment and the supporting methodologies. Each of the 4 components used to develop the workload adjustment is a defined category of applications that FDA currently counts. Each component will be given a weighting factor that corresponds to its percent of FDA review workload.

The workload adjustment envisioned for each component has as its base the average number of applications of each particular type that FDA received over the five-year period of current law. It requires that a rolling average of submissions also be calculated each year for the latest five-year period that ends on June 30 before the end of each fiscal year beginning on or after October 1, 2002. The percent change in the latest five-year average, compared to the base year is then multiplied by the weighting factor for that component. Then all four components of the workload adjuster are added together and the total percent that results is the workload adjuster that will be used to further adjust the inflation-adjusted statutory revenue levels each year after FY 2003. Use of five year rolling averages in this process dampens the impact of revenue fluctuations—both up and down.

Under this section, the revenue adjuster will never result in lower revenues than the inflation-adjusted statutory revenue levels. Nonetheless, in years when fee-paying applications fall below projections, FDA will automatically experience a shortfall in revenues due to the shortfall in fee-paying applications. Further downward adjustment of the revenues would over-compensate for such a decline in workload and is not authorized under the subsection. This is a lesson learned from experience during 1998 through 2002. If such a model had been in place for the past five years, revenues during PDUFA II would have been much more predictable year to year rather than exhibiting the volatility FDA experienced.

Also under this section, FDA is allowed to make a one-time increase in fees in FY 2007, if necessary, to assure that the agency will have no less than three months of operating reserves on hand at the end of FY 2007, when this legislation will expire. This final year adjustment will allow the agency sufficient fees to operate for up to 3 months in FY 2008 if there is any delay in the reauthorization of PDUFA at the end of FY 2007. Further, delaying this payment from industry until FY 2007 minimizes the need for FDA to carry large balances over from year to year, reducing industry outlays until they are necessary to support operations.

Finally, this section provides that application, product, and establishment fees are to be established 60 days before the start of the fiscal year based on the revenue amounts previously established in this section.

Under subsection (d), the waiver or fee reduction for supplements filed under section 505(b)(1) of the FFD&C Act is eliminated.

In this section the word ''assessed'' in section 736(f) of the FFD&C Act has been changed to ''retained.'' This change is part of a series of changes made to permit FDA to issue invoices and collect fees before an appropriation is actually made for the fiscal year. The change maintains the original intent of this and related provisions, however, by providing that the conditions originally specified in these sections must be fulfilled once all appropriations for the fiscal year, including any supplemental appropriations, are enacted. If the conditions are not fulfilled, FDA may not retain the fees it collects. Further, under this section, the word ''collected'' in section 736(g)(2)(A) of the FFD&C Act is changed to ''retained.'' Once again, this change is part of a series of changes made to permit FDA to issue invoices and collect fees before an appropriation is actually made for the fiscal year. The change maintains the original intent of this and related provisions by asserting that the conditions originally specified in these sections must be fulfilled once all appropriations for the fiscal year, including any supplemental appropriations, are enacted.

This section also responds to the problems associated with FDA's inability under the FFD&C Act to collect and spend fees in any year that FDA fails to spend from appropriations as much as it spend in FY 1997, adjusted for inflation. Failing to meet this obligation by as little as one dollar causes FDA to lose the authority to collect application, product and establishment fees for a given fiscal year. The consequence of failing to meet this ''trigger'' would be catastrophic. Since the trigger is based on the amount FDA spends, the agency can never identify exactly how much it has actually spend until after the end of the fiscal year. As a result, FDA consistently overspends by a substantial amount to be certain that FDA expenditures do not fall below the trigger amount and thereby cause the agency to lose the authority to collect fees.

Modifications to section 736(g)(2)(B) are proposed to provide FDA a margin of error in its effort to meet this requirement of the law. This section is being modified so that if FDA's spending is within five percent of the amount required by this section of the Act, the requirement of this section is considered to be satisfied. If FDA under-spends by three percent or less, there are no consequences. If FDA under-spends by more than three percent but not more than five percent, FDA will be required to reduce collections in the fiscal year following the subsequent fiscal year by the amount in excess of three percent by which FDA under-spent from appropriations. The intent is to relieve FDA of the need to overspend from appropriations each year, as it has done consistently since 1993 to assure that this trigger is met. Spending from appropriations on the drug review process each year is still expected to be at or very close to the amount specified by this trigger, and may never be more than five percent below the trigger amount.

This section also authorizes appropriations for fiscal years 2003 through 2007 in amounts consistent with the total fee revenue amounts set forth in subsection (b).

Section 505. Accountability and Annual Reports

This section for the first time requires the agency to meet with interested public and private stakeholders when considering the reauthorization of this program before its expiration. The Managers believe that the agency will be in the best position to recognize what best serves the public health by meeting with representatives of consumer and patient advocacy groups, industry, the Congress, health care professionals, and academic experts prior to the next reauthorization of PDUFA. Further, the Managers believe that it is very important for the agency to make any recommendations to the Congress public, so this section requires that the FDA both publish the recommendations, as well as hold a public hearing at which time the agency can receive public feedback.

This section also requires an annual Performance Report and a Financial Report.

Section 506. Reports of Postmarketing Studies

Under this section, the Managers intend that in instances wherein a study subject to the reporting requirements of Section 130 is not completed by the original or otherwise negotiated deadline agreed upon by the sponsor and if the reasons for such failure to complete the study were not satisfactory to the Secretary, the Secretary shall so note on the agency website. The Managers intend that the Secretary would not find the delay or termination of a study unsatisfactory if the Secretary determined that the delay or termination occurred through no fault of the sponsor (such as ethical concerns, or the study is no longer needed).

This section also empowers the Secretary to require a sponsor of a study required under section 505(b)(2)(A) or sections 314.510 or 601.41 of Title 21, Code of Federal Regulations, to notify health care practitioners who prescribe such drugs or biological products of the sponsor's failure to complete the study, and the questions of clinical benefit and, where appropriate, questions of safety, that remain unanswered as a result of such failure. The Managers intend that this authority not be utilized in cases where, through no fault of the sponsor (such as ethical concerns, or the study is no longer needed), the study has been delayed or terminated.

Section 507. Savings Clause

This section authorizes user fees to be assessed and collected after October 1, 2002 for human drug applications and supplements accepted for filing prior to October 1, 2002. For example, in the event that application fees are owed but have not been collected prior to the expiration date for PDUFA II established by section 107 of the Food and Drug Administration Modernization Act (FDAMA), the section will allow these fees to be collected after October 1, 2002. The section further authorizes assessment and collection of product and establishment fees after October 1, 2002 that are owed but have not been collected.

Section 508. Effective Date

Section 508 provides that the Prescription Drug User Fee Amendments of 2002 shall take effect October 1, 2002.

Section 509. Sunset Clause

Section 509 provides that the amendments made by sections 503 (relating to definitions) and 504 (relating to the authority to assess and use drug fees) shall cease to be effective on October 1, 2007.

The section further provides that the amendments made by section 505 (relating to annual reports) shall cease to be effective 120 days after October 1, 2007. The additional 120 days will allow the prescription drug user fee reports for fiscal year 2007 to be prepared and submitted.

Subtitle B—Additional Authorizations of Appropriations Regarding Food and Drug Administration

Section 521. Office of Drug Safety

This section will help the FDA fulfill its vitally important role of ensuring drug safety. The Managers are highly supportive of the postmarket surveillance activities conducted by the Office of Drug Safety (ODS), and to that end other provisions in this legislation ensure for the first time that user fee monies will be available for postmarket purposes. This section complements those efforts by ensuring that not only will new user fee monies be available for this very important purpose, but so will new appropriated monies.

Section 522. Division of Drug Marketing, Advertising, and Communications

This section provides an increased authorization for the Division of Drug Marketing, Advertising, and Communications (DDMAC) within the Office of Medical Policy, Center for Drug Evaluation and Research at the FDA. DDMAC plays a vital role in ensuring that promotional drug material is not false or misleading, and they do so on a limited budget. The authorized amounts will better ensure that DDMAC can perform its mission.

Section 523. Office of Generic Drugs

This section provides an increased authorization for the Office of Generic Drugs (OGD) within the Center for Drug Evaluation and Research at the FDA. OGD is vitally important to ensuring that Americans have access to safe, effective generic drugs. This Office needs increased funding, however, due to the fact that it presently takes OGD nearly 18 months to review the typical ANDA. This section will lead to increased funding, so that these review times can be decreased without compromising health and safety.

Subtitle C—Additional Provisions

Section 531. Transition to Digital Television

In an effort to further promote the orderly transition to digital television, and to promote the equitable allocation and use of digital channels by television broadcast permittees and licensees, the Managers direct the Federal Communications Commission, at the request of an eligible licensee or permittee, to, within 90 days after the date of enactment of this Act, allot, if necessary, and assign a requested and identified paired digital television channel to that licensee or permittee. In order to avoid any undue burden to the Commission, which is required to allot and assign the paired digital television channel within a short timeframe, the Managers expect all eligible applicants to file their applications as soon as practicable after the date of enactment. The FCC shall only do this if such channel can be allotted and assigned without further modification of the tables of allotments as set forth in sections 73.606 and 73.622 of the Commission's regulations (47 CFR 73.606, 73.622) and such allotment and assignment is consistent with the Commission's technical rules (47 CFR part 73). The only licensees or permittees eligible for this digital allotment are those that are full power television broadcast licensee or permittees (or their successors in interest) that had an application pending for an analog television station construction permit as of October 24, 1991, which application was granted after April 3, 1997; and as of the date of enactment of this Act, is the permittee or licensee of that station. This provision enables such licensees or permittees an opportunity to realize their expectations created by prior FCC action to foster a digital audience during the transition period to digital television without having to terminate abruptly analog service now enjoyed by their viewers. Without this change, those broadcast licensees or permittees would be denied the flexibility to operate an analog and a digital facility simultaneously in the near term, especially in a major market. This is contrary to the Congressional goals of increasing competition and accelerating the digital television transition. The Managers are ensuring that eligible licensees or permittees will meet the intended objectives by doing two important things. First, the Managers impose an unequivocally hard 18-month deadline for the construction of the digital facility from the time of the FCC's issuance of the construction permit for the new digital channel. In this regard, eligible licensees are absolutely prohibited from obtaining or receiving an extension of time from the Commission pursuant to 47 C.F.R. 73.624(d)(3). Second, the Managers safeguard against eligible licensees from using the newly granted ''in-core'' digital channel allotment and assignment to provide analog service.

Section 532. 3-Year Delay in Lock in Procedures for Medicare+Choice Plans; Change in Medicare+Choice Reporting Deadlines and Annual, Coordinated Election Period for 2003, 2004, and 2005

This section changes the deadline for Medicare+Choice plans to submit information to the Secretary on Medicare benefits, premiums, cost sharing, supplemental benefits, and actuarial values of such coverage from July 1 to the second Monday in September for the years 2002, 2003, and 2004. It would also delay the annual election period for Medicare enrollees to select a M+C plan to the period of time beginning on November 15 and ending on December 31 in 2002, 2003, and 2004. This section also delays the phase in of the limitation on Medicare beneficiaries changing health plans more than once a year (the ''lock-in''). This requirement, enacted in the Balanced Budget Act of 1997, was scheduled to phase in incrementally beginning in 2002. The substitute would postpone the lock-in requirements until 2005.

From the Committee on Energy and Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
MICHAEL BILIRAKIS,
PAUL E. GILLMOR,
RICHARD BURR,
JOHN SHIMKUS,
JOHN D. DINGELL,
HENRY A. WAXMAN,

Provided that Mr. Pallone is appointed in lieu of Mr. Brown of Ohio for consideration of title IV of the House bill, and modifications committed to conference:

SHERROD BROWN,
FRANK PALLONE, Jr.,

From the Committee on Agriculture, for consideration of title II of the House bill and sec. 216 and title V of the Senate amendment, and modifications committed to conference:

LARRY COMBEST,
FRANK D. LUCAS,
SAXBY CHAMBLISS,
CHARLES STENHOLM,
TIM HOLDEN,

From the Committee on the Judiciary, for consideration of title II of the House bill and secs. 216 and 401 of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER, Jr.,
LAMAR SMITH,
JOHN CONYERS, Jr.,

Managers on the Part of the House.

EDWARD KENNEDY,
CHRIS DODD,
TOM HARKIN,
BARBARA A. MIKULSKI,
JIM JEFFORDS,
JUDD GREGG,
BILL FRIST,
MIKE ENZI,
TIM HUTCHINSON,

Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. EMERSON (at the request of Mr. ARMEY) for today on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. SHERMAN) to revise and extend their remarks and include extraneous material:

Mrs. MALONEY of New York, for 5 minutes, today.
Mr. HOYER, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. DEFAZIO, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Ms. CARSON of Indiana, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Mr. SHERMAN, for 5 minutes, today.
Mr. FALEOMAVAEGA, for 5 minutes, today.

The following Members (at the request of Mr. BILIRAKIS) to revise and extend their remarks and include extraneous material:

Mr. WILSON of South Carolina, for 5 minutes, May 23.
Mr. GEKAS, for 5 minutes, today.
Mr. NORWOOD, for 5 minutes, May 22.
Mr. SMITH of Michigan, for 5 minutes, today.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on May 20, 2002 he presented to the President of the United States, for his approval, the following bills.

H.R. 1840. To extend eligibility for refugee status of unmarried sons and daughters of certain Vietnamese refugees.

ADJOURNMENT

Mr. REYNOLDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 32 minutes a.m.), the House adjourned until today, Wednesday, May 22, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6929. A letter from the Congressional Review Coordinator Animal and Plant HealthInspection Service, transmitting the Department's final rule—Karnal Bunt Compensation (RIN: 0579–AB45) [Docket No. 01–112–1] received May 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6930. A letter from the Under Secretary, Department of Defense, transmitting the annual report on operations of the National Defense Stockpile, pursuant to 50 U.S.C. 98h—5; to the Committee on Armed Services.

6931. A letter from the Register Liaison Officer, Department of Defense, transmitting the Department's final rule—TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Bonus Payments in Medically Underserved Areas (RIN: 0720–AA60) received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6932. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense

Federal Acquisition Regulation Supplement; Changes to Profit Policy [DFARS Case 2000–D018] received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6933. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Balance of Payments Program [DFARS Case 2000–D020] received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6934. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Balance of Payments Program [DFARS Case 2000–D020] received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6935. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Research and Development Streamlined Contracting Procedures [DFARS Case 2001–D002] received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6936. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Codification and Modification of Berry Amendment [DFARS Case 2002–D002] received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6937. A letter from the Register Liasion Officer, Department of Defense, transmitting the Department's final rule—TRICARE Prime Remote for Active Duty Family Members (RIN: 0720–AA68) received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6938. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Mandated Edgar Filing For Foreign Issuers (RIN: 3235–AI08) received May 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6939. A letter from the General Counsel, Consumer Product Safety Commission, transmitting the Commission's final rule—Household Products Containing Hydrocardons; Final Rules—received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6940. A letter from the Executive Director, District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members, pursuant to D.C. Code section 1—732 and 1—734(a)(1)(A); to the Committee on Government Reform.

6941. A letter from the Chief Executive Officer, Corporation for National and Community Service, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6942. A letter from the Chair, Board of Directors, Corporation for Public Broadcasting, transmitting the Corporation's Semiannual Report for the period ending September 30, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6943. A letter from the Senior Attorney Federal Register Certifying Officer, Department of the Treasury, transmitting the Department's final rule—Rules and Procedures for Efficient Federal-State Funds Transfers (RIN: 1510–AA38) received May 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6944. A letter from the Secretary, Department of Agriculture, transmitting the Department's Consolidated Financial Statements for Fiscal Year 2001; to the Committee on Government Reform.

6945. A letter from the General Counsel, Federal Retirement Thrift Investment Board, transmitting the Board's final rule—Employee Elections to Contribute to the Thrift Savings Plan and Methods of Withdrawing Funds from the Thrift Savings Plan—received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6946. A letter from the District of Columbia Auditor, Office of the District of Columbia Auditor, transmitting a report entitled, ''City Charges DCPS Nearly $1 Million in Utility Expenses That Should Have Been Charged To Other Entities''; to the Committee on Government Reform.

6947. A letter from the Dircetor, Office of Personnel Management, transmitting the Office's final rule—Firefighter Pay (RIN: 3206–AI50) received May 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6948. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule—Technical Amendments To Election Cycle Reporting [Notice 2001–17] received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

6949. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Subsistence Management Regulations for Public Lands in Alaska (RIN: 1018–AH85) received May 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6950. A letter from the Regulatory Specialist, Department of the Interior, transmitting the Department's final rule—Trust Management Reform: Probate of Indian Trust Estates (RIN: 1090–AA78) received May 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6951. A letter from the Regulatory Specialist, Department of the Interior, transmitting the Department's final rule—Trust Management Reform: Probate of Indian Trust Estates (RIN: 1090–AA78) received May 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6952. A letter from the Regulations Coordinator, Department of Health and HumanServices, transmitting the Department's final rule—Tribal Self-Governance Amendments of 2000 (RIN: 0917–AA05) received May 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6953. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Black Sea Bass Fishery; Commercial Quota Harvested for Quarter 4 Period [Docket No. 001121328–1041–02; I.D. 102901B] received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6954. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Mid-Atlantic Fishery Management Council (Council); Request for Research Proposals (RFP) [Docket No. 020306047–2047–01; I.D. 020402E] (RIN: 0648–ZB14) received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6955. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Commercial Haddock Harvest [Docket No. 010313064–1064–01; I.D. 103101B] received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6956. A letter from the Acting Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery [Docket No. 010413094–1094–01; I.D. 060701A] (RIN: 0648–AP10) received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6957. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fraser River Sockeye and Pink Salmon Fisheries; 2001 Inseason Orders [I.D. 110801F] received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6958. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administation's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 011218304–1304–01; I.D. 011602C] received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6959. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Closure of Directed Fishery for Pacific Mackerel [Docket No. 000831250–0250–01; 111601D] received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6960. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Documentation of Immigrants and Nonimmigrants under the Immigration and Nationality Act, As Amended—Visa Fees: Proposed Rule—received April 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6961. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Regulated Navigation Area; Savannah River, Georgia [CGD07–01–037] (RIN: 2115–AE84) received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6962. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zones; Port Neches Riverfest, Neches River, Port Neches, Texas [COTP Port Arthur–02–002] (RIN: 2115–AA97) received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6963. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zones; Cruise Ships, San Pedro Bay, California (RIN: 2115–AA97) [COTP Los Angeles-Long Beach 02–009] received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6964. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone; Maumee River, Lake Erie, Ohio (RIN: 2115–AA97) [CGD09–02–015] received May 9, 2002, pursuant

to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6965. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; Potomac River, Washington Channel, Washington, DC [COTP Baltimore 02–002] (RIN: 2115–AA97) received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6966. A letter from the General Counsel, Office of Management and Budget, transmitting the Office's final rule—Air Transportation Safety and System Stabilization Act; Air Carrier Guarantee Loan Program—received May 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6967. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—NASA Grant and Cooperative Agreement Handbook—Limitations on Incremental Funding and Deobligations on Grants, and Elimination of Delegation of Closeout of Grants and Cooperative Agreements to Office of Naval Research (ONR) (RIN: 2700–AC51) received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

6968. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—NASA FAR Supplement—Conformance with FACs 01–01, 01–02, and 01–06; and Miscellaneous Administrative and Technical Revisions (RIN: 2700–AC33) received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

6969. A letter from the Acting Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—Small Business Size Regulations; Size Standards for Programs of Other Agencies (RIN: 3245–AE42) received May 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

6970. A letter from the Acting Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—Small Business Size Standards; Travel Agencies; Economic Injury Disaster Loan Program (RIN: 3245–AE93) received May 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

6971. A letter from the Chief, Regulations Division, ATF, Department of the Treasury, transmitting the Department's final rule—Delegation of Authority for Part 25 [T.D. ATF–437] (RIN: 1512–AC07) received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6972. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Changes in accounting periods [TD 8996] (RIN: 1545–AX15) received May 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6973. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters (Rev. Proc. 2002–4) received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6974. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Changes in accounting periods and in methods of accounting (Rev. Proc. 2002–38) received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6975. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Mid-contact Change in Taxpayer (RIN: 1545–AY31) received May 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6976. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Electing Small Business Trust [TD 8994] (RIN: 1545–AU76) received May 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6977. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Payment by Credit Card and Debit Card [TD 8969] (RIN: 1545–AW37) received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6978. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—PHedging Transactions [TD 8985] (RIN: 1545–AY02) received May 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6979. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Changes in accounting periods and methods of accounting (Rev. Proc. 2002–19) received May 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6980. A letter from the Social Security Administration Regulations Officer, Social Security Administration, transmitting the Administration's final rule—Supplemental Security Income; Disclosure of Information to Consumer Reporting Agencies and Overpayment Recovery Through Administrative Offset Against Federal Payments (RIN: 0960–AF31) received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TAUZIN: Committee of Conference. Conference report on H.R. 3448. A bill to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies (Rept. 107–481). Ordered to be printed.

Mrs. MYRICK: Committee on Rules. House Resolution 426. Resolution providing for consideration of the bill (H.R. 3129) to authorize appropriations for fiscal years 2002 and 2003 for the United States Customs Service for antiterrorism, drug interdiction, and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes (Rept. 107–482). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 427. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3448) to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies (Rept. 107–483). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 428. Resolution providing for consideration of the bill (H.R. 4775) making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–484). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CRANE:

H.R. 4779. A bill to authorize appropriations for fiscal years 2002 through 2004 for the United States Customs Service for antiterrorism, drug interdiction, and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes; to the Committee on Ways and Means.

By Mr. MATSUI (for himself, Mr. GEPHARDT, Ms. PELOSI, Mr. RANGEL, and Mrs. THURMAN):

H.R. 4780. A bill to reject proposals to partially or completely substitute private saving accounts for the lifelong, guaranteed, inflation-protected insurance benefits provided through Social Security; to the Committee on Ways and Means.

By Mr. GILCHREST:

H.R. 4781. A bill to reauthorize the Marine Mammal Protection Act of 1972, and for other purposes; to the Committee on Resources.

By Mr. OXLEY:

H.R. 4782. A bill to extend the authority of the Export-Import Bank until June 14, 2002; to the Committee on Financial Services. considered and passed.

By Mr. BRADY of Texas (for himself, Mrs. MYRICK, Mr. PITTS, Mr. TERRY, Mr. SOUDER, Mr. ISTOOK, Mr. BARR of Georgia, and Ms. HART):

H.R. 4783. A bill to authorize States under Federal health care grant-in-aid programs to require parental consent or notification for purpose of purchase of prescription drugs or devices for minors; to the Committee on Energy and Commerce.

By Mr. DUNCAN:

H.R. 4784. A bill to direct the Secretary of the Interior to replace the U.S. Fish and Wildlife Service as the Federal agency responsible for the administration, protection, and preservation of Midway Atoll, and for other purposes; to the Committee on Resources.

By Mr. FERGUSON (for himself, Mr. SOUDER, Mr. LATOURETTE, Mr. SMITH of New Jersey, and Mr. SAXTON):

H.R. 4785. A bill to establish a program to transfer surplus computers of Federal agencies to schools and nonprofit community-based educational organizations, and for other purposes; to the Committee on Government Reform.

By Mr. HINCHEY (for himself, Mr. RANGEL, Mr. FROST, Mr. MCNULTY, Mr. MCGOVERN, Mr. BOEHLERT, Mr. NEAL of Massachusetts, Mrs. JO ANN DAVIS of Virginia, Mr. ENGEL, Mr. FATTAH, Mr. GILMAN, Mr. KINGSTON, Mr. SOUDER, Ms. SLAUGHTER, and Mr. CAPUANO):

H.R. 4786. A bill to establish within the National Park Service the 225th Anniversary of the American Revolution Commemorative program, and for other purposes; to the Committee on Resources.

By Mrs. MINK of Hawaii:

H.R. 4787. A bill to amend the impact aid program under section 8003 of the Elementary and Secondary Education Act of 1965 to include children who are citizens of the freely associated states in the computation of the amount of basic support payments to local educational agencies under the program; to the Committee on Education and the Workforce.

By Mr. SIMMONS:

H.R. 4788. A bill to extend the deadline for commencement of construction of a hydroelectric project in Connecticut, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WILSON of South Carolina:

H. Con. Res. 407. Concurrent resolution expressing the sense of the Congress that all

people in the United States should take an active role in the fight against Huntington's disease, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FOSSELLA:

H. Res. 424. A resolution paying tribute to the workers in New York City for their rescue, recovery, and clean-up efforts at the site of the World Trade Center; to the Committee on Government Reform.

By Mrs. THURMAN:

H. Res. 425. A resolution providing for the consideration of the bill (H.R. 3497) to amend the Social Security Act and the Internal Revenue Code of 1986 to preserve and strengthen the Social Security Program through the creation of personal Social Security guarantee accounts ensuring full benifits for all workers and their families, restoring long-term Social Security solvency, to make certain benefit improvements, and for other purposes; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 17: Ms. MCKINNEY.
H.R. 285: Mr. BONIOR.
H.R. 436: Mr. OTTER.
H.R. 448: Mr. CARSON of Oklahoma.
H.R. 488: Mr. GEPHARDT.
H.R. 633: Mr. CROWLEY.
H.R. 840: Mr. TOM DAVIS of Virginia, Mr. KENNEDY of Rhode Island, and Ms. WATSON.
H.R. 854: Mr. MEEHAN, Mr. LAMPSON, and Mr. DOGGETT.
H.R. 858: Mr. BISHOP, Mr. MALONEY of Connecticut, and Mr. HOLT.
H.R. 877: Mr. LAMPSON.
H.R. 898: Mr. DAVIS of Illinois and Mr. LANTOS.
H.R. 1043: Mr. LYNCH.
H.R. 1073: Mr. BISHOP.
H.R. 1109: Mr. COMBEST.
H.R. 1143: Mrs. LOWEY.
H.R. 1144: Mr. LANTOS.
H.R. 1274: Mr. WILSON of South Carolina, Mr. MICA, Mr. PAUL, and Mr. HORN.
H.R. 1305: Mr. BROWN of South Carolina and Mr. HOEKSTRA.
H.R. 1310: Mr. STARK.
H.R. 1460: Mr. THUNE.
H.R. 1522: Mr. LAMPSON.
H.R. 1556: Mr. DOGGETT.
H.R. 1581: Mr. WILSON of South Carolina.
H.R. 1637: Mr. LAFALCE.
H.R. 1650: Ms. CARSON of Indiana.
H.R. 1704: Mr. SESSIONS.
H.R. 1733: Mr. MEEKS of New York and Mr. OWENS.
H.R. 1779: Ms. VELAZQUEZ.
H.R. 1808: Mr. RUSH.
H.R. 1897: Mr. CAPUANO.
H.R. 1904: Ms. PELOSI.
H.R. 1911: Mr. WILSON of South Carolina.
H.R. 1919: Mr. HOEKSTRA and Mr. ROYCE.
H.R. 1935: Mr. CALLAHAN, Mr. ACEVEDO-VILA, Mr. TIERNEY, Mr. ISTOOK, Mr. WATKINS, and Mr. LUCAS of Oklahoma.
H.R. 1950: Mr. BISHOP.
H.R. 1966: Mr. SOUDER and Mr. KERNS.
H.R. 1987: Mr. LARSON of Connecticut.
H.R. 2057: Mr. SMITH of New Jersey, Mr. HOEFFEL, and Mr. SAXTON.
H.R. 2158: Ms. MCCOLLUM, Mr. HINCHEY, Mrs. TAUSCHER, Ms. SCHAKOWSKY, Ms. ESHOO, and Mr. UDALL of New Mexico.
H.R. 2352: Mr. PALLONE.
H.R. 2373: Mr. OTTER, Mr. RYUN of Kansas, Mr. BACHUS, Mr. SULLIVAN, and Mr. DEAL of Georgia.
H.R. 2466: Mr. HOEKSTRA and Mr. BARCIA.
H.R. 2573: Ms. LEE, Mr. ENGEL, and Mr. WALSH.
H.R. 2638: Mr. MCDERMOTT, Mr. CAPUANO, and Mr. ORITZ.
H.R. 2670: Mr. KIND.
H.R. 2746: Mr. SHERMAN.
H.R. 2796: Mr. SHERMAN.
H.R. 2874: Mr. GONZALEZ, Mr. BERMAN, Ms. WATSON, and Mr. DAVIS of Illinois.
H.R. 2878: Mr. HINCHEY.
H.R. 3100: Ms. SLAUGHTER.
H.R. 3131: Mr. SMITH of Texas.
H.R. 3218: Mr. HILLIARD.
H.R. 3238: Mr. GRUCCI and Mr. BAIRD.
H.R. 3267: Mr. LANTOS.
H.R. 3284: Mr. MURTHA.
H.R. 3296: Mr. GEORGE MILLER of California.
H.R. 3320: Mr. LAHOOD.
H.R. 3321: Mr. LOBIONDO.
H.R. 3390: Mr. ROSS.
H.R. 3397: Ms. LOFGREN and Mrs. DAVIS of California.
H.R. 3450: Mr. UDALL of New Mexico, Mr. HOYER, Mrs. LOWEY, and Mr. WILSON of South Carolina.
H.R. 3547: Mr. GIBBONS and Mr. HANSEN.
H.R. 3567: Mr. ROGERS of Michigan.
H.R. 3594: Mr. PLATTS.
H.R. 3612: Mr. ENGLISH, Ms. RIVERS, Mr. REYES, Ms. KAPTUR, Mr. FORD, Mr. LANTOS, and Mr. UDALL of Colorado.
H.R. 3624: Mr. WILSON of South Carolina.
H.R. 3661: Mr. SHERMAN, Mr. LEWIS of Kentucky, and Mr. LARSEN of Washington.
H.R. 3670: Mr. WATT of North Carolina, Mr. MATHESON, Mr. LUCAS of Kentucky, and Mr. DICKS.
H.R. 3749: Mr. HORN, Mr. DELAHUNT, Mr. GEORGE MILLER of California, and Mr. GUTIERREZ.
H.R. 3807: Ms. SCHAKOWSKY.
H.R. 3831: Mr. DOYLE.
H.R. 3834: Mr. SHERMAN, Mr. SNYDER, Mr. COMBEST, Mr. LAMPSON, Mr. WEXLER, Mr. CLAY, and Mr. CAPUANO.
H.R. 3915: Ms. WATSON.
H.R. 3956: Mr. ENGLISH.
H.R. 3961: Ms. NORTON, Ms. MCKINNEY, Mr. CONYERS, Mr. JACKSON of Illinois, Mrs. CLAYTON, Mr. KUCINICH, Mr. FRANK, and Mr. SANDERS.
H.R. 3973: Mr. CAPUANO, Mr. MICA, Mr. KERNS, Ms. MCKINNEY, Mr. FRANK, Mr. HALL of Texas, Mr. HOSTETTLER, Mr. SKELTON, Mr. ORTIZ, Mr. SPRATT, and Mr. FILNER.
H.R. 3974: Ms. MCKINNEY and Mr. ALLEN.
H.R. 4003: Mr. WAXMAN.
H.R. 4013: Mrs. LOWEY.
H.R. 4014: Mrs. LOWEY.
H.R. 4018: Mr. BONIOR and Mr. GILMAN.
H.R. 4058: Mr. TIERNEY.
H.R. 4066: Mr. COSTELLO, Mr. POMEROY, Mr. THOMPSON of California, Mrs. CLAYTON, Mr. HOYER, Mrs. MEEK of Florida, Mr. GEPHARDT, Mr. ROSS, Mr. ETHERIDGE, Mr. ALLEN, and Mr. GORDON.
H.R. 4071: Mr. OTTER.
H.R. 4078: Mr. WEXLER and Mr. KANJORSKI.
H.R. 4086: Mr. LEACH.
H.R. 4123: Ms. MILLENDER-MCDONALD, Ms. SCHAKOWSKY, and Mr. SANDERS.
H.R. 4169: Mr. BURTON of Indiana, Mr. GREEN of Wisconsin, and Mr. GOODLATTE.
H.R. 4483: Mr. SIMMONS, Ms. BACHUS, Mr. BROWN of South Carolina, Mr. SESSIONS, Ms. GRANGER, Mrs. JO ANN DAVIS of Virginia, Mrs. MORELLA, Mr. FORBES, Mr. HOLDEN, Mrs. MALONEY of New York, and Mrs. MCCARTHY of New York.
H.R. 4515: Mr. THORNBERRY and Mr. BRYANT.
H.R. 4545: Mr. CASTLE.
H.R. 4614: Mr. FILNER and Mr. BISHOP.
H.R. 4621: Mr. ENGLISH, Mr. HASTINGS of Florida, Mr. GREEN of Texas, Mr. RANGEL, and Mr. FROST.
H.R. 4635: Mr. BAKER, Mr. KERNS, and Mr. TIBERI.
H.R. 4646: Mr. BACHUS, Ms. MCCOLLUM, Mr. BRADY of Pennsylvania, Mr. PASTOR, Ms. SANCHEZ, Mr. GRUCCI, Mrs. CAPPS, Mr. THOMPSON of California, and Ms. HOOLEY of Oregon.
H.R. 4654: Ms. MCKINNEY, Mr. ACKERMAN, Mrs. LOWEY, Mr. ENGEL, and Mrs. KELLY.
H.R. 4658: Mr. WOLF, Mr. BERRY, and Mr. FROST.
H.R. 4663: Mrs. LOWEY.
H.R. 4664: Ms. RIVERS.
H.R. 4669: Ms. SOLIS.
H.R. 4679: Mr. TIBERI.
H.R. 4715: Mr. HILLIARD, Ms. MCKINNEY, and Ms. BROWN of Florida.
H.R. 4752: Mr. KLECZKA.
H.R. 4754: Ms. JACKSON-LEE of Texas, Mr. ETHERIDGE, Mr. KENNEDY of Rhode Island, Mr. HOEFFEL, and Mrs. THURMAN.
H.R. 4756: Mr. MCINNIS and Mr. HAYWORTH.
H.R. 4758: Mr. TANNER and Mr. HILL.
H.R. 4777: Mr. DEFAZIO, Mr. KIND, Ms. ESHOO, Mr. WU, Ms. DEGETTE, Mr. SANDLIN, Mr. GEORGE MILLER of California, Mr. FROST, Mr. MCGOVERN, Mr. TURNER, Mr. HOLT, Mr. GREEN of Texas, Mr. HOEFFEL, Ms. SLAUGHTER, Mr. GONZALEZ, Mr. BENTSEN, Ms. DELAURO, and Mr. ABERCROMBIE.
H.R. 4778: Ms. KAPTUR, Ms. BROWN of Florida, Mr. TIERNEY, Ms. LEE, Mr. LUTHER, Mr. GEORGE MILLER of California, Ms. SLAUGHTER, and Ms. ROYBAL-ALLARD.
H.J. Res. 23: Mr. BILIRAKIS.
H.J. Res. 40: Mr. CASTLE and Mr. BASS.
H.J. Res. 89: Mr. HOYER.
H.J. Res. 92: Mr. SWEENEY, Mrs. TAUSCHER, Ms. MCCARTHY of Missouri, Ms. MCKINNEY, Mr. WEINER, Mr. MATSUI, Mr. FRANK, Mr. HILLIARD, Mr. SANDERS, and Mr. LANGEVIN.
H.J. Res. 93: Mr. JONES of North Carolina.
H. Con. Res. 99: Mrs. LOWEY and Mr. ENGEL.
H. Con. Res. 164: Mr. EHRLICH.
H. Con. Res. 315: Mr. BALLENGER.
H. Con. Res. 333: Mr. LIPINSKI.
H. Con. Res. 385: Mr. THOMPSON of California, Mr. LANGEVIN, Mr. HINOJOSA, Mr. BLAGOJEVICH, Mr. FARR of California, Mr. STRICKLAND, Mr. SCOTT, Mr. SHOWS, Mr. LARSEN of Washington, Mr. MATSUI, and Mr. MEEKS of New York.
H. Con. Res. 400: Mr. WICKER.
H. Con. Res. 405: Mr. HASTINGS of Florida, Mr. MCNULTY, Mr. KILDEE, Ms. LEE, Mr. LANGEVIN, Ms. BALDWIN, Mr. HYDE, Mr. CAPUANO, Mr. SANDERS, Mr. MALONEY of Connecticut, and Mr. WEINER.
H. Res. 253: Mr. INSLEE, Mr. DELAHUNT, Mr. SAWYER, Mr. KLECZKA, Mr. HOLDEN, Mr. KANJORSKI, Mr. BALDACCI, Mr. FATTAH, Mr. DOYLE, Mr. VISCLOSKY, Mr. HOEFFEL, Mr. GREEN of Texas, Mr. LARSON of Connecticut, Mr. PALLONE, Mr. JOHN, Mr. BRADY of Pennsylvania, Mr. PASCRELL, Mr. KILDEE, Mr. ANDREWS, Mr. WU, Mr. MCDERMOTT, Mr. MICA, Mr. LANGEVIN, Mr. BORSKI, Mr. FORD, Mr. FILNER, Mr. GILMAN, Mr. LAFALCE, Mr. POMEROY, Mr. BARRETT, Mrs. MCCARTHY of New York, Mr. CAPUANO, Mr. MATHESON, Mr. BONIOR, and Mr. SHOWS.
H. Res. 407: Mr. HOLT.
H. Res. 416: Mr. BURTON of Indiana and Mr. DEAL of Georgia.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 4775

OFFERED BY: MR. CALLAHAN

AMENDMENT NO. 4: In chapter 6 of title I, strike the second paragraph under the heading ''ECONOMIC SUPPORT FUND''.

H.R. 4775

OFFERED BY: MR. CALLAHAN

AMENDMENT NO. 5: In chapter 6 of title I, in the second paragraph under the heading ''ECONOMIC SUPPORT FUND''—

(1) after the aggregate dollar amount, insert ''(reduced by $50,000,000)''; and

(2) strike the second and third provisos.

H.R. 4775

OFFERED BY: MR. CALLAHAN

AMENDMENT NO. 6: In chapter 6 of title I, in the second paragraph under the heading ''ECONOMIC SUPPORT FUND'', insert after the third proviso the following:

'': *Provided further*, That the funds appropriated in this paragraph shall be available for obligation only if the President determines and certifies to the Congress that Israel and the Palestinian Authority are engaged in formal negotiations on a peace treaty''

H.R. 4775

OFFERED BY: MR. CALLAHAN

AMENDMENT NO. 7: In chapter 6 of title I, in the second paragraph under the heading ''ECONOMIC SUPPORT FUND''—

(1) after the aggregate dollar amount, insert ''(increased by $134,000,000)''; and

(2) after the third proviso, insert the following: '': *Provided further*, That $134,000,000 of the funds appropriated in this paragraph shall be made available for assistance for Egypt''.

H.R. 4775

OFFERED BY: MR. KUCINICH

AMENDMENT NO. 8: Page 52, line 20, after the dollar figure insert ''(reduced by $147,000,000)''.

H.R. 4775

OFFERED BY: MR. ROEMER

AMENDMENT NO. 9: Page 138, after line 12, insert the following new title:

TITLE III—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES.

SEC. 3001. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the ''Commission'').

SEC. 3002. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(4) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 3003. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—Subject to the requirements of subsection (b), the Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) QUALIFICATIONS.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—No member of the Commission shall be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(c) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to the requirement of paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(d) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary Chairperson and Vice Chairperson, who may begin the operations of the Commission, including the hiring of staff.

(e) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 3004. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The functions of the Commission are to—

(1) investigate the relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(b) SCOPE OF INVESTIGATION.—For purposes of subsection (a)(1), the term ''facts and circumstances'' includes facts and circumstances relating to—

(1) intelligence agencies;

(2) law enforcement agencies;

(3) diplomacy;

(4) immigration, nonimmigrant visas, and border control;

(5) the flow of assets to terrorist organizations;

(6) commercial aviation; and

(7) other areas of the public and private sectors determined relevant by the Commission for its inquiry.

SEC. 3005. POWERS OF THE COMMISSION.

(a) HEARINGS AND EVIDENCE.—The Commission may, for purposes of carrying out this title—

(1) hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths; and

(2) require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents.

(b) SUBPOENAS.—

(1) SERVICE.—Subpoenas issued under subsection (a)(2) may be served by any person designated by the Commission.

(2) ENFORCEMENT.—

(A) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a)(2), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(B) ADDITIONAL ENFORCEMENT.—Sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(c) CLOSED MEETINGS.—Notwithstanding any other provision of law which would require meetings of the Commission to be open to the public, any portion of a meeting of the Commission may be closed to the public if the President determines that such portion is likely to disclose matters that could endanger national security.

(d) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(e) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department, agency, or instrumentality of the United States any information related to any inquiry of the Commission conducted under this title. Each such department, agency, or instrumentality shall, to the extent authorized by law, furnish such information directly to the Commission upon request.

(f) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(g) GIFTS.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, accept, use, and dispose of gifts or donations of services or property.

(h) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(i) POWERS OF SUBCOMMITTEES, MEMBERS, AND AGENTS.—Any subcommittee, member, or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

SEC. 3006. STAFF OF THE COMMISSION.

(a) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson and the Vice Chairperson, acting jointly.

(b) STAFF.—The Chairperson, in consultation with the Vice Chairperson, may appoint additional personnel as may be necessary to

enable the Commission to carry out its functions.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any individual appointed under subsection (a) or (b) shall be treated as an employee for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(d) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(e) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 3007. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 3008. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 3009. REPORTS OF THE COMMISSION; TERMINATION.

(a) INITIAL REPORT.—Not later than 1 year after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 6 months after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 3010. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

H.R. 4775

OFFERED BY: MR. STRICKLAND

AMENDMENT NO. 10: At the end of the bill (before the short title), insert the following:

TITLE III—ADDITIONAL GENERAL PROVISIONS

SEC. 3001. None of the funds made available in this Act may be used by the Department of Veterans Affairs to require a copayment in excess of $2 for any 30-day or less supply of medication provided to a veteran by the Department.